

110TH CONGRESS  
2D SESSION

# H. R. 5351

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## AN ACT

To amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.

1       *Be it enacted by the Senate and House of Representa-*  
2   *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

2 **TABLE OF CONTENTS.**

3 (a) SHORT TITLE.—This Act may be cited as the  
4 “Renewable Energy and Energy Conservation Tax Act of  
5 2008”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-  
7 wise expressly provided, whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment  
9 to, or repeal of, a section or other provision, the reference  
10 shall be considered to be made to a section or other provi-  
11 sion of the Internal Revenue Code of 1986.

12 (c) TABLE OF CONTENTS.—The table of contents of  
13 this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

**TITLE I—PRODUCTION INCENTIVES**

Sec. 101. Extension and modification of renewable energy credit.

Sec. 102. Production credit for electricity produced from marine renewables.

Sec. 103. Extension and modification of energy credit.

Sec. 104. New clean renewable energy bonds.

Sec. 105. Extension and modification of special rule to implement FERC and  
State electric restructuring policy.

Sec. 106. Extension and modification of credit for residential energy efficient  
property.

**TITLE II—CONSERVATION**

**Subtitle A—Transportation**

**PART 1—VEHICLES**

Sec. 201. Credit for plug-in hybrid vehicles.

Sec. 202. Extension and modification of alternative fuel vehicle refueling prop-  
erty credit.

Sec. 203. Modification of limitation on automobile depreciation.

**PART 2—FUELS**

Sec. 211. Extension and modification of credits for biodiesel and renewable die-  
sel.

- Sec. 212. Clarification that credits for fuel are designed to provide an incentive for United States production.
- Sec. 213. Credit for production of cellulosic alcohol.

#### PART 3—OTHER TRANSPORTATION INCENTIVES

- Sec. 221. Extension of transportation fringe benefit to bicycle commuters.
- Sec. 222. Restructuring of New York Liberty Zone tax credits.

#### Subtitle B—Other Conservation Provisions

- Sec. 231. Qualified energy conservation bonds.
- Sec. 232. Extension and modification of credit for nonbusiness energy property.
- Sec. 233. Extension of energy efficient commercial buildings deduction.
- Sec. 234. Modifications of energy efficient appliance credit for appliances produced after 2007.
- Sec. 235. Five-year applicable recovery period for depreciation of qualified energy management devices.

#### TITLE III—REVENUE PROVISIONS

- Sec. 301. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.
- Sec. 302. Clarification of determination of foreign oil and gas extraction income.
- Sec. 303. Time for payment of corporate estimated taxes.

#### TITLE IV—OTHER PROVISIONS

##### Subtitle A—Studies

- Sec. 401. Carbon audit of the tax code.
- Sec. 402. Comprehensive study of biofuels.

##### Subtitle B—Application of Certain Labor Standards on Projects Financed Under Tax Credit Bonds

- Sec. 411. Application of certain labor standards on projects financed under tax credit bonds.

## 1                   **TITLE I—PRODUCTION**

## 2                   **INCENTIVES**

### 3   **SEC. 101. EXTENSION AND MODIFICATION OF RENEWABLE**

### 4                   **ENERGY CREDIT.**

- 5           (a) EXTENSION OF CREDIT.—Each of the following
- 6 provisions of section 45(d) (relating to qualified facilities)
- 7 is amended by striking “January 1, 2009” and inserting
- 8 “January 1, 2012”:

1 (1) Paragraph (1).

2 (2) Clauses (i) and (ii) of paragraph (2)(A).

3 (3) Clauses (i)(I) and (ii) of paragraph (3)(A).

4 (4) Paragraph (4).

5 (5) Paragraph (5).

6 (6) Paragraph (6).

7 (7) Paragraph (7).

8 (8) Subparagraphs (A) and (B) of paragraph  
9 (9).

10 (b) MODIFICATION OF CREDIT PHASEOUT.—

11 (1) REPEAL OF PHASEOUT.—Subsection (b) of  
12 section 45 is amended—

13 (A) by striking paragraph (1), and

14 (B) by striking “the 8 cent amount in  
15 paragraph (1),” in paragraph (2) thereof.

16 (2) LIMITATION BASED ON INVESTMENT IN FA-  
17 CILITY.—Subsection (b) of section 45 is amended by  
18 inserting before paragraph (2) the following new  
19 paragraph:

20 “(1) LIMITATION BASED ON INVESTMENT IN  
21 FACILITY.—

22 “(A) IN GENERAL.—In the case of any  
23 qualified facility originally placed in service  
24 after December 31, 2009, the amount of the  
25 credit determined under subsection (a) for any

1 taxable year with respect to electricity produced  
2 at such facility shall not exceed the product  
3 of—

4 “(i) the applicable percentage with re-  
5 spect to such facility, multiplied by

6 “(ii) the eligible basis of such facility.

7 “(B) CARRYFORWARD OF UNUSED LIMITA-  
8 TION AND EXCESS CREDIT.—

9 “(i) UNUSED LIMITATION.—If the  
10 limitation imposed under subparagraph (A)  
11 with respect to any facility for any taxable  
12 year exceeds the prelimitation credit for  
13 such facility for such taxable year, the lim-  
14 itation imposed under subparagraph (A)  
15 with respect to such facility for the suc-  
16 ceeding taxable year shall be increased by  
17 the amount of such excess.

18 “(ii) EXCESS CREDIT.—If the  
19 prelimitation credit with respect to any fa-  
20 cility for any taxable year exceeds the limi-  
21 tation imposed under subparagraph (A)  
22 with respect to such facility for such tax-  
23 able year, the credit determined under sub-  
24 section (a) with respect to such facility for  
25 the succeeding taxable year (determined

1 before the application of subparagraph (A)  
 2 for such succeeding taxable year) shall be  
 3 increased by the amount of such excess.  
 4 With respect to any facility, no amount  
 5 may be carried forward under this clause  
 6 to any taxable year beginning after the 10-  
 7 year period described in subsection  
 8 (a)(2)(A)(ii) with respect to such facility.

9 “(iii) PRELIMINATION CREDIT.—The  
 10 term ‘prelimination credit’ with respect to  
 11 any facility for a taxable year means the  
 12 credit determined under subsection (a)  
 13 with respect to such facility for such tax-  
 14 able year, determined without regard to  
 15 subparagraph (A) and after taking into ac-  
 16 count any increase for such taxable year  
 17 under clause (ii).

18 “(C) APPLICABLE PERCENTAGE.—For  
 19 purposes of this paragraph—

20 “(i) IN GENERAL.—The term ‘applica-  
 21 ble percentage’ means, with respect to any  
 22 facility, the appropriate percentage pre-  
 23 scribed by the Secretary for the month in  
 24 which such facility is originally placed in  
 25 service.

1 “(ii) METHOD OF PRESCRIBING AP-  
2 PLICABLE PERCENTAGES.—The applicable  
3 percentages prescribed by the Secretary for  
4 any month under clause (i) shall be per-  
5 centages which yield over a 10-year period  
6 amounts of limitation under subparagraph  
7 (A) which have a present value equal to 35  
8 percent of the eligible basis of the facility.

9 “(iii) METHOD OF DISCOUNTING.—  
10 The present value under clause (ii) shall be  
11 determined—

12 “(I) as of the last day of the 1st  
13 year of the 10-year period referred to  
14 in clause (ii),

15 “(II) by using a discount rate  
16 equal to the greater of 110 percent of  
17 the Federal long-term rate as in effect  
18 under section 1274(d) for the month  
19 preceding the month for which the ap-  
20 plicable percentage is being pre-  
21 scribed, or 4.5 percent, and

22 “(III) by taking into account the  
23 limitation under subparagraph (A) for  
24 any year on the last day of such year.

1                   “(D) ELIGIBLE BASIS.—For purposes of  
2 this paragraph—

3                   “(i) IN GENERAL.—The term ‘eligible  
4 basis’ means, with respect to any facility,  
5 the sum of—

6                   “(I) the basis of such facility de-  
7 termined as of the time that such fa-  
8 cility is originally placed in service,  
9 and

10                  “(II) the portion of the basis of  
11 any shared qualified property which is  
12 properly allocable to such facility  
13 under clause (ii).

14                  “(ii) RULES FOR ALLOCATION.—For  
15 purposes of subclause (II) of clause (i), the  
16 basis of shared qualified property shall be  
17 allocated among all qualified facilities  
18 which are projected to be placed in service  
19 and which require utilization of such prop-  
20 erty in proportion to projected generation  
21 from such facilities.

22                  “(iii) SHARED QUALIFIED PROP-  
23 erty.—For purposes of this paragraph,  
24 the term ‘shared qualified property’ means,



1 with respect to any facility, any property  
2 described in section 168(e)(3)(B)(vi)—

3 “(I) which a qualified facility will  
4 require for utilization of such facility,  
5 and

6 “(II) which is not a qualified fa-  
7 cility.

8 “(iv) SPECIAL RULE RELATING TO  
9 GEOTHERMAL FACILITIES.—In the case of  
10 any qualified facility using geothermal en-  
11 ergy to produce electricity, the basis of  
12 such facility for purposes of this paragraph  
13 shall be determined as though intangible  
14 drilling and development costs described in  
15 section 263(c) were capitalized rather than  
16 expensed.

17 “(E) SPECIAL RULE FOR FIRST AND LAST  
18 YEAR OF CREDIT PERIOD.—In the case of any  
19 taxable year any portion of which is not within  
20 the 10-year period described in subsection  
21 (a)(2)(A)(ii) with respect to any facility, the  
22 amount of the limitation under subparagraph  
23 (A) with respect to such facility shall be re-  
24 duced by an amount which bears the same ratio  
25 to the amount of such limitation (determined

1 without regard to this subparagraph) as such  
 2 portion of the taxable year which is not within  
 3 such period bears to the entire taxable year.

4 “(F) ELECTION TO TREAT ALL FACILITIES  
 5 PLACED IN SERVICE IN A YEAR AS 1 FACIL-  
 6 ITY.—At the election of the taxpayer, all quali-  
 7 fied facilities which are part of the same project  
 8 and which are placed in service during the same  
 9 calendar year shall be treated for purposes of  
 10 this section as 1 facility which is placed in serv-  
 11 ice at the mid-point of such year or the first  
 12 day of the following calendar year.”.

13 (c) TRASH FACILITY CLARIFICATION.—Paragraph  
 14 (7) of section 45(d) is amended—

15 (1) by striking “facility which burns” and in-  
 16 serting “facility (other than a facility described in  
 17 paragraph (6)) which uses”, and

18 (2) by striking “COMBUSTION”.

19 (d) EXPANSION OF BIOMASS FACILITIES.—

20 (1) OPEN-LOOP BIOMASS FACILITIES.—Para-  
 21 graph (3) of section 45(d) is amended by redesign-  
 22 ating subparagraph (B) as subparagraph (C) and  
 23 by inserting after subparagraph (A) the following  
 24 new subparagraph:

1                   “(B) EXPANSION OF FACILITY.—Such  
 2                   term shall include a new unit placed in service  
 3                   after the date of the enactment of this subpara-  
 4                   graph in connection with a facility described in  
 5                   subparagraph (A), but only to the extent of the  
 6                   increased amount of electricity produced at the  
 7                   facility by reason of such new unit.”.

8                   (2) CLOSED-LOOP BIOMASS FACILITIES.—Para-  
 9                   graph (2) of section 45(d) is amended by redesign-  
 10                  nating subparagraph (B) as subparagraph (C) and  
 11                  inserting after subparagraph (A) the following new  
 12                  subparagraph:

13                   “(B) EXPANSION OF FACILITY.—Such  
 14                   term shall include a new unit placed in service  
 15                   after the date of the enactment of this subpara-  
 16                   graph in connection with a facility described in  
 17                   subparagraph (A)(i), but only to the extent of  
 18                   the increased amount of electricity produced at  
 19                   the facility by reason of such new unit.”.

20                  (e) EFFECTIVE DATE.—

21                   (1) IN GENERAL.—Except as otherwise pro-  
 22                   vided in this subsection, the amendments made by  
 23                   this section shall apply to property originally placed  
 24                   in service after December 31, 2008.

1           (2) REPEAL OF CREDIT PHASEOUT.—The  
2       amendments made by subsection (b)(1) shall apply  
3       to taxable years ending after December 31, 2008.

4           (3) LIMITATION BASED ON INVESTMENT IN FA-  
5       CILITY.—The amendment made by subsection (b)(2)  
6       shall apply to property originally placed in service  
7       after December 31, 2009.

8           (4) TRASH FACILITY CLARIFICATION.—The  
9       amendments made by subsection (c) shall apply to  
10      electricity produced and sold after the date of the  
11      enactment of this Act.

12          (5) EXPANSION OF BIOMASS FACILITIES.—The  
13      amendments made by subsection (d) shall apply to  
14      property placed in service after the date of the en-  
15      actment of this Act.

16 **SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRO-**  
17 **DUCED FROM MARINE RENEWABLES.**

18      (a) IN GENERAL.—Paragraph (1) of section 45(c)  
19      (relating to resources) is amended by striking “and” at  
20      the end of subparagraph (G), by striking the period at  
21      the end of subparagraph (H) and inserting “, and”, and  
22      by adding at the end the following new subparagraph:

23                   “(I) marine and hydrokinetic renewable en-  
24                   ergy.”.

1 (b) MARINE RENEWABLES.—Subsection (c) of sec-  
2 tion 45 is amended by adding at the end the following  
3 new paragraph:

4 “(10) MARINE AND HYDROKINETIC RENEW-  
5 ABLE ENERGY.—

6 “(A) IN GENERAL.—The term ‘marine and  
7 hydrokinetic renewable energy’ means energy  
8 derived from—

9 “(i) waves, tides, and currents in  
10 oceans, estuaries, and tidal areas,

11 “(ii) free flowing water in rivers,  
12 lakes, and streams,

13 “(iii) free flowing water in an irriga-  
14 tion system, canal, or other man-made  
15 channel, including projects that utilize non-  
16 mechanical structures to accelerate the  
17 flow of water for electric power production  
18 purposes, or

19 “(iv) differentials in ocean tempera-  
20 ture (ocean thermal energy conversion).

21 “(B) EXCEPTIONS.—Such term shall not  
22 include any energy which is derived from any  
23 source which utilizes a dam, diversionary struc-  
24 ture (except as provided in subparagraph

1 (A)(iii)), or impoundment for electric power  
 2 production purposes.”.

3 (c) DEFINITION OF FACILITY.—Subsection (d) of  
 4 section 45 is amended by adding at the end the following  
 5 new paragraph:

6 “(11) MARINE AND HYDROKINETIC RENEW-  
 7 ABLE ENERGY FACILITIES.—In the case of a facility  
 8 producing electricity from marine and hydrokinetic  
 9 renewable energy, the term ‘qualified facility’ means  
 10 any facility owned by the taxpayer—

11 “(A) which has a nameplate capacity rat-  
 12 ing of at least 150 kilowatts, and

13 “(B) which is originally placed in service  
 14 on or after the date of the enactment of this  
 15 paragraph and before January 1, 2012.”.

16 (d) CREDIT RATE.—Subparagraph (A) of section  
 17 45(b)(4) is amended by striking “or (9)” and inserting  
 18 “(9), or (11)”.

19 (e) COORDINATION WITH SMALL IRRIGATION  
 20 POWER.—Paragraph (5) of section 45(d), as amended by  
 21 section 101(a), is amended by striking “January 1, 2012”  
 22 and inserting “the date of the enactment of paragraph  
 23 (11)”.

24 (f) EFFECTIVE DATE.—The amendments made by  
 25 this section shall apply to electricity produced and sold

1 after the date of the enactment of this Act, in taxable  
2 years ending after such date.

3 **SEC. 103. EXTENSION AND MODIFICATION OF ENERGY**  
4 **CREDIT.**

5 (a) EXTENSION OF CREDIT.—

6 (1) SOLAR ENERGY PROPERTY.—Paragraphs  
7 (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating  
8 to energy credit) are each amended by striking  
9 “January 1, 2009” and inserting “January 1,  
10 2017”.

11 (2) FUEL CELL PROPERTY.—Subparagraph (E)  
12 of section 48(c)(1) (relating to qualified fuel cell  
13 property) is amended by striking “December 31,  
14 2008” and inserting “December 31, 2016”.

15 (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-  
16 TERNATIVE MINIMUM TAX.—Subparagraph (B) of section  
17 38(c)(4) (relating to specified credits) is amended by strik-  
18 ing “and” at the end of clause (iii), by striking the period  
19 at the end of clause (iv) and inserting “, and”, and by  
20 adding at the end the following new clause:

21 “(v) the credit determined under sec-  
22 tion 46 to the extent that such credit is at-  
23 tributable to the energy credit determined  
24 under section 48.”.

1 (c) INCREASE OF CREDIT LIMITATION FOR FUEL  
2 CELL PROPERTY.—Subparagraph (B) of section 48(c)(1)  
3 is amended by striking “\$500” and inserting “\$1,500”.

4 (d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN  
5 INTO ACCOUNT.—

6 (1) IN GENERAL.—Paragraph (3) of section  
7 48(a) is amended by striking the second sentence  
8 thereof.

9 (2) CONFORMING AMENDMENTS.—

10 (A) Paragraph (1) of section 48(c) is  
11 amended by striking subparagraph (D) and re-  
12 designating subparagraph (E) as subparagraph  
13 (D).

14 (B) Paragraph (2) of section 48(c) is  
15 amended by striking subparagraph (D) and re-  
16 designating subparagraph (E) as subparagraph  
17 (D).

18 (e) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as otherwise pro-  
20 vided in this subsection, the amendments made by  
21 this section shall take effect on the date of the en-  
22 actment of this Act.

23 (2) ALLOWANCE AGAINST ALTERNATIVE MIN-  
24 IMUM TAX.—The amendments made by subsection  
25 (b) shall apply to credits determined under section



1       46 of the Internal Revenue Code of 1986 in taxable  
 2       years beginning after the date of the enactment of  
 3       this Act and to carrybacks of such credits.

4           (3) INCREASE IN LIMITATION FOR FUEL CELL  
 5       PROPERTY.—The amendment made by subsection  
 6       (c) shall apply to periods after the date of the enact-  
 7       ment of this Act, in taxable years ending after such  
 8       date, under rules similar to the rules of section  
 9       48(m) of the Internal Revenue Code of 1986 (as in  
 10      effect on the day before the date of the enactment  
 11      of the Revenue Reconciliation Act of 1990).

12          (4) PUBLIC ELECTRIC UTILITY PROPERTY.—  
 13      The amendments made by subsection (d) shall apply  
 14      to periods after February 13, 2008, in taxable years  
 15      ending after such date, under rules similar to the  
 16      rules of section 48(m) of the Internal Revenue Code  
 17      of 1986 (as in effect on the day before the date of  
 18      the enactment of the Revenue Reconciliation Act of  
 19      1990).

20   **SEC. 104. NEW CLEAN RENEWABLE ENERGY BONDS.**

21          (a) IN GENERAL.—Part IV of subchapter A of chap-  
 22      ter 1 (relating to credits against tax) is amended by add-  
 23      ing at the end the following new subpart:

24           **“Subpart I—Qualified Tax Credit Bonds**

“Sec. 54A. Credit to holders of qualified tax credit bonds.

“Sec. 54B. New clean renewable energy bonds.

1   **“SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CRED-**  
2                   **IT BONDS.**

3           “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds  
4 a qualified tax credit bond on one or more credit allowance  
5 dates of the bond during any taxable year, there shall be  
6 allowed as a credit against the tax imposed by this chapter  
7 for the taxable year an amount equal to the sum of the  
8 credits determined under subsection (b) with respect to  
9 such dates.

10          “(b) AMOUNT OF CREDIT.—

11               “(1) IN GENERAL.—The amount of the credit  
12 determined under this subsection with respect to any  
13 credit allowance date for a qualified tax credit bond  
14 is 25 percent of the annual credit determined with  
15 respect to such bond.

16               “(2) ANNUAL CREDIT.—The annual credit de-  
17 termined with respect to any qualified tax credit  
18 bond is the product of—

19                       “(A) the applicable credit rate, multiplied  
20 by

21                       “(B) the outstanding face amount of the  
22 bond.

23               “(3) APPLICABLE CREDIT RATE.—For purposes  
24 of paragraph (2), the applicable credit rate is the  
25 rate which the Secretary estimates will permit the  
26 issuance of qualified tax credit bonds with a speci-

1       fied maturity or redemption date without discount  
2       and without interest cost to the qualified issuer. The  
3       applicable credit rate with respect to any qualified  
4       tax credit bond shall be determined as of the first  
5       day on which there is a binding, written contract for  
6       the sale or exchange of the bond.

7               “(4) SPECIAL RULE FOR ISSUANCE AND RE-  
8       DEMPTION.—In the case of a bond which is issued  
9       during the 3-month period ending on a credit allow-  
10      ance date, the amount of the credit determined  
11      under this subsection with respect to such credit al-  
12      lowance date shall be a ratable portion of the credit  
13      otherwise determined based on the portion of the 3-  
14      month period during which the bond is outstanding.  
15      A similar rule shall apply when the bond is redeemed  
16      or matures.

17           “(c) LIMITATION BASED ON AMOUNT OF TAX.—

18               “(1) IN GENERAL.—The credit allowed under  
19      subsection (a) for any taxable year shall not exceed  
20      the excess of—

21                   “(A) the sum of the regular tax liability  
22                   (as defined in section 26(b)) plus the tax im-  
23                   posed by section 55, over

1           “(B) the sum of the credits allowable  
2           under this part (other than subpart C and this  
3           subpart).

4           “(2) CARRYOVER OF UNUSED CREDIT.—If the  
5           credit allowable under subsection (a) exceeds the  
6           limitation imposed by paragraph (1) for such taxable  
7           year, such excess shall be carried to the succeeding  
8           taxable year and added to the credit allowable under  
9           subsection (a) for such taxable year (determined be-  
10          fore the application of paragraph (1) for such suc-  
11          ceeding taxable year).

12          “(d) QUALIFIED TAX CREDIT BOND.—For purposes  
13 of this section—

14           “(1) QUALIFIED TAX CREDIT BOND.—The term  
15           ‘qualified tax credit bond’ means a new clean renew-  
16           able energy bond which is part of an issue that  
17           meets the requirements of paragraphs (2), (3), (4),  
18           (5), and (6).

19           “(2) SPECIAL RULES RELATING TO EXPENDI-  
20           TURES.—

21           “(A) IN GENERAL.—An issue shall be  
22           treated as meeting the requirements of this  
23           paragraph if, as of the date of issuance, the  
24           issuer reasonably expects—

1 “(i) 100 percent or more of the avail-  
2 able project proceeds to be spent for 1 or  
3 more qualified purposes within the 3-year  
4 period beginning on such date of issuance,  
5 and

6 “(ii) a binding commitment with a  
7 third party to spend at least 10 percent of  
8 such available project proceeds will be in-  
9 curred within the 6-month period begin-  
10 ning on such date of issuance.

11 “(B) FAILURE TO SPEND REQUIRED  
12 AMOUNT OF BOND PROCEEDS WITHIN 3  
13 YEARS.—

14 “(i) IN GENERAL.—To the extent that  
15 less than 100 percent of the available  
16 project proceeds of the issue are expended  
17 by the close of the expenditure period for  
18 1 or more qualified purposes, the issuer  
19 shall redeem all of the nonqualified bonds  
20 within 90 days after the end of such pe-  
21 riod. For purposes of this paragraph, the  
22 amount of the nonqualified bonds required  
23 to be redeemed shall be determined in the  
24 same manner as under section 142.

1                   “(ii) EXPENDITURE PERIOD.—For  
2                   purposes of this subpart, the term ‘expend-  
3                   iture period’ means, with respect to any  
4                   issue, the 3-year period beginning on the  
5                   date of issuance. Such term shall include  
6                   any extension of such period under clause  
7                   (iii).

8                   “(iii) EXTENSION OF PERIOD.—Upon  
9                   submission of a request prior to the expira-  
10                  tion of the expenditure period (determined  
11                  without regard to any extension under this  
12                  clause), the Secretary may extend such pe-  
13                  riod if the issuer establishes that the fail-  
14                  ure to expend the proceeds within the  
15                  original expenditure period is due to rea-  
16                  sonable cause and the expenditures for  
17                  qualified purposes will continue to proceed  
18                  with due diligence.

19                  “(C) QUALIFIED PURPOSE.—For purposes  
20                  of this paragraph, the term ‘qualified purpose’  
21                  means a purpose specified in section 54B(a)(1).

22                  “(D) REIMBURSEMENT.—For purposes of  
23                  this subtitle, available project proceeds of an  
24                  issue shall be treated as spent for a qualified  
25                  purpose if such proceeds are used to reimburse

1 the issuer for amounts paid for a qualified pur-  
2 pose after the date that the Secretary makes an  
3 allocation of bond limitation with respect to  
4 such issue, but only if—

5 “(i) prior to the payment of the origi-  
6 nal expenditure, the issuer declared its in-  
7 tent to reimburse such expenditure with  
8 the proceeds of a qualified tax credit bond,

9 “(ii) not later than 60 days after pay-  
10 ment of the original expenditure, the issuer  
11 adopts an official intent to reimburse the  
12 original expenditure with such proceeds,  
13 and

14 “(iii) the reimbursement is made not  
15 later than 18 months after the date the  
16 original expenditure is paid.

17 “(3) REPORTING.—An issue shall be treated as  
18 meeting the requirements of this paragraph if the  
19 issuer of qualified tax credit bonds submits reports  
20 similar to the reports required under section 149(e).

21 “(4) SPECIAL RULES RELATING TO ARBI-  
22 TRAGE.—

23 “(A) IN GENERAL.—An issue shall be  
24 treated as meeting the requirements of this  
25 paragraph if the issuer satisfies the require-

ments of section 148 with respect to the proceeds of the issue.

“(B) SPECIAL RULE FOR INVESTMENTS DURING EXPENDITURE PERIOD.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.

“(C) SPECIAL RULE FOR RESERVE FUNDS.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if—

“(i) such fund is funded at a rate not more rapid than equal annual installments,

“(ii) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and

“(iii) the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.

“(5) MATURITY LIMITATION.—



1           “(A) IN GENERAL.—An issue shall not be  
2           treated as meeting the requirements of this  
3           paragraph if the maturity of any bond which is  
4           part of such issue exceeds the maximum term  
5           determined by the Secretary under subpara-  
6           graph (B).

7           “(B) MAXIMUM TERM.—During each cal-  
8           endar month, the Secretary shall determine the  
9           maximum term permitted under this paragraph  
10          for bonds issued during the following calendar  
11          month. Such maximum term shall be the term  
12          which the Secretary estimates will result in the  
13          present value of the obligation to repay the  
14          principal on the bond being equal to 50 percent  
15          of the face amount of such bond. Such present  
16          value shall be determined using as a discount  
17          rate the average annual interest rate of tax-ex-  
18          empt obligations having a term of 10 years or  
19          more which are issued during the month. If the  
20          term as so determined is not a multiple of a  
21          whole year, such term shall be rounded to the  
22          next highest whole year.

23          “(6) PROHIBITION ON FINANCIAL CONFLICTS  
24          OF INTEREST.—An issue shall be treated as meeting

1 the requirements of this paragraph if the issuer cer-  
2 tifies that—

3 “(A) applicable State and local law re-  
4 quirements governing conflicts of interest are  
5 satisfied with respect to such issue, and

6 “(B) if the Secretary prescribes additional  
7 conflicts of interest rules governing the appro-  
8 priate Members of Congress, Federal, State,  
9 and local officials, and their spouses, such addi-  
10 tional rules are satisfied with respect to such  
11 issue.

12 “(e) OTHER DEFINITIONS.—For purposes of this  
13 subchapter—

14 “(1) CREDIT ALLOWANCE DATE.—The term  
15 ‘credit allowance date’ means—

16 “(A) March 15,

17 “(B) June 15,

18 “(C) September 15, and

19 “(D) December 15.

20 Such term includes the last day on which the bond  
21 is outstanding.

22 “(2) BOND.—The term ‘bond’ includes any ob-  
23 ligation.

1           “(3) STATE.—The term ‘State’ includes the  
2       District of Columbia and any possession of the  
3       United States.

4           “(4) AVAILABLE PROJECT PROCEEDS.—The  
5       term ‘available project proceeds’ means—

6                   “(A) the excess of—

7                           “(i) the proceeds from the sale of an  
8                           issue, over

9                           “(ii) the issuance costs financed by  
10                          the issue (to the extent that such costs do  
11                          not exceed 2 percent of such proceeds),  
12                          and

13                          “(B) the proceeds from any investment of  
14                          the excess described in subparagraph (A).

15       “(f) CREDIT TREATED AS INTEREST.—For purposes  
16       of this subtitle, the credit determined under subsection (a)  
17       shall be treated as interest which is includible in gross in-  
18       come.

19       “(g) S CORPORATIONS AND PARTNERSHIPS.—In the  
20       case of a tax credit bond held by an S corporation or part-  
21       nership, the allocation of the credit allowed by this section  
22       to the shareholders of such corporation or partners of such  
23       partnership shall be treated as a distribution.

24       “(h) BONDS HELD BY REGULATED INVESTMENT  
25       COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

1 If any qualified tax credit bond is held by a regulated in-  
2 vestment company or a real estate investment trust, the  
3 credit determined under subsection (a) shall be allowed to  
4 shareholders of such company or beneficiaries of such  
5 trust (and any gross income included under subsection (f)  
6 with respect to such credit shall be treated as distributed  
7 to such shareholders or beneficiaries) under procedures  
8 prescribed by the Secretary.

9 “(i) CREDITS MAY BE STRIPPED.—Under regula-  
10 tions prescribed by the Secretary—

11 “(1) IN GENERAL.—There may be a separation  
12 (including at issuance) of the ownership of a quali-  
13 fied tax credit bond and the entitlement to the credit  
14 under this section with respect to such bond. In case  
15 of any such separation, the credit under this section  
16 shall be allowed to the person who on the credit al-  
17 lowance date holds the instrument evidencing the en-  
18 titlement to the credit and not to the holder of the  
19 bond.

20 “(2) CERTAIN RULES TO APPLY.—In the case  
21 of a separation described in paragraph (1), the rules  
22 of section 1286 shall apply to the qualified tax credit  
23 bond as if it were a stripped bond and to the credit  
24 under this section as if it were a stripped coupon.

1 **“SEC. 54B. NEW CLEAN RENEWABLE ENERGY BONDS.**

2 “(a) NEW CLEAN RENEWABLE ENERGY BOND.—For  
3 purposes of this subpart, the term ‘new clean renewable  
4 energy bond’ means any bond issued as part of an issue  
5 if—

6 “(1) 100 percent of the available project pro-  
7 ceeds of such issue are to be used for capital expend-  
8 itures incurred by public power providers or coopera-  
9 tive electric companies for one or more qualified re-  
10 newable energy facilities,

11 “(2) the bond is issued by a qualified issuer,  
12 and

13 “(3) the issuer designates such bond for pur-  
14 poses of this section.

15 “(b) REDUCED CREDIT AMOUNT.—The annual credit  
16 determined under section 54A(b) with respect to any new  
17 clean renewable energy bond shall be 70 percent of the  
18 amount so determined without regard to this subsection.

19 “(c) LIMITATION ON AMOUNT OF BONDS DES-  
20 IGNATED.—

21 “(1) IN GENERAL.—The maximum aggregate  
22 face amount of bonds which may be designated  
23 under subsection (a) by any issuer shall not exceed  
24 the limitation amount allocated under this sub-  
25 section to such issuer.

1           “(2) NATIONAL LIMITATION ON AMOUNT OF  
2       BONDS DESIGNATED.—There is a national new clean  
3       renewable energy bond limitation of \$2,000,000,000  
4       which shall be allocated by the Secretary as provided  
5       in paragraph (3), except that—

6           “(A) not more than 60 percent thereof  
7       may be allocated to qualified projects of public  
8       power providers, and

9           “(B) not more than 40 percent thereof  
10      may be allocated to qualified projects of cooper-  
11      ative electric companies.

12      “(3) METHOD OF ALLOCATION.—

13           “(A) ALLOCATION AMONG PUBLIC POWER  
14      PROVIDERS.—After the Secretary determines  
15      the qualified projects of public power providers  
16      which are appropriate for receiving an alloca-  
17      tion of the national new clean renewable energy  
18      bond limitation, the Secretary shall, to the max-  
19      imum extent practicable, make allocations  
20      among such projects in such manner that the  
21      amount allocated to each such project bears the  
22      same ratio to the cost of such project as the  
23      limitation under subparagraph (2)(A) bears to  
24      the cost of all such projects.

1                   “(B) ALLOCATION AMONG COOPERATIVE  
2           ELECTRIC COMPANIES.—The Secretary shall  
3           make allocations of the amount of the national  
4           new clean renewable energy bond limitation de-  
5           scribed in paragraph (2)(B) among qualified  
6           projects of cooperative electric companies in  
7           such manner as the Secretary determines ap-  
8           propriate.

9           “(d) DEFINITIONS.—For purposes of this section—  
10           “(1) QUALIFIED RENEWABLE ENERGY FACIL-  
11           ITY.—The term ‘qualified renewable energy facility’  
12           means a qualified facility (as determined under sec-  
13           tion 45(d) without regard to paragraphs (8) and  
14           (10) thereof and to any placed in service date)  
15           owned by a public power provider or a cooperative  
16           electric company.

17           “(2) PUBLIC POWER PROVIDER.—The term  
18           ‘public power provider’ means a State utility with a  
19           service obligation, as such terms are defined in sec-  
20           tion 217 of the Federal Power Act (as in effect on  
21           the date of the enactment of this paragraph).

22           “(3) COOPERATIVE ELECTRIC COMPANY.—The  
23           term ‘cooperative electric company’ means a mutual  
24           or cooperative electric company described in section  
25           501(c)(12) or section 1381(a)(2)(C).

1           “(4) CLEAN RENEWABLE ENERGY BOND LEND-  
2           ER.—The term ‘clean renewable energy bond lender’  
3           means a lender which is a cooperative which is  
4           owned by, or has outstanding loans to, 100 or more  
5           cooperative electric companies and is in existence on  
6           February 1, 2002, and shall include any affiliated  
7           entity which is controlled by such lender.

8           “(5) QUALIFIED ISSUER.—The term ‘qualified  
9           issuer’ means a public power provider, a cooperative  
10          electric company, a clean renewable energy bond  
11          lender, or a not-for-profit electric utility which has  
12          received a loan or loan guarantee under the Rural  
13          Electrification Act.”.

14          (b) REPORTING.—Subsection (d) of section 6049 (re-  
15          lating to returns regarding payments of interest) is  
16          amended by adding at the end the following new para-  
17          graph:

18                 “(9) REPORTING OF CREDIT ON QUALIFIED  
19                 TAX CREDIT BONDS.—

20                         “(A) IN GENERAL.—For purposes of sub-  
21                         section (a), the term ‘interest’ includes amounts  
22                         includible in gross income under section 54A  
23                         and such amounts shall be treated as paid on  
24                         the credit allowance date (as defined in section  
25                         54A(e)(1)).



“(B) REPORTING TO CORPORATIONS,  
ETC.—Except as otherwise provided in regula-  
tions, in the case of any interest described in  
subparagraph (A) of this paragraph, subsection  
(b)(4) of this section shall be applied without  
regard to subparagraphs (A), (H), (I), (J), (K),  
and (L)(i).

“(C) REGULATORY AUTHORITY.—The Sec-  
retary may prescribe such regulations as are  
necessary or appropriate to carry out the pur-  
poses of this paragraph, including regulations  
which require more frequent or more detailed  
reporting.”.

(c) CONFORMING AMENDMENTS.—

(1) Sections 54(c)(2) and 1400N(l)(3)(B) are  
each amended by striking “subpart C” and inserting  
“subparts C and I”.

(2) Section 1397E(c)(2) is amended by striking  
“subpart H” and inserting “subparts H and I”.

(3) Section 6401(b)(1) is amended by striking  
“and H” and inserting “H, and I”.

(4) The heading of subpart H of part IV of  
subchapter A of chapter 1 is amended by striking  
“**Certain Bonds**” and inserting “**Clean Re-  
newable Energy Bonds**”.

1           (5) The table of subparts for part IV of sub-  
 2           chapter A of chapter 1 is amended by striking the  
 3           item relating to subpart H and inserting the fol-  
 4           lowing new items:

“SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE  
 ENERGY BONDS.

“SUBPART I. QUALIFIED TAX CREDIT BONDS.”.

5           (d) EFFECTIVE DATES.—The amendments made by  
 6           this section shall apply to obligations issued after the date  
 7           of the enactment of this Act.

8   **SEC. 105. EXTENSION AND MODIFICATION OF SPECIAL**  
 9                           **RULE TO IMPLEMENT FERC AND STATE**  
 10                          **ELECTRIC RESTRUCTURING POLICY.**

11          (a) EXTENSION FOR QUALIFIED ELECTRIC UTILI-  
 12          TIES.—

13               (1) IN GENERAL.—Paragraph (3) of section  
 14               451(i) (relating to special rule for sales or disposi-  
 15               tions to implement Federal Energy Regulatory Com-  
 16               mission or State electric restructuring policy) is  
 17               amended by inserting “(before January 1, 2010, in  
 18               the case of a qualified electric utility)” after “Janu-  
 19               ary 1, 2008”.

20               (2) QUALIFIED ELECTRIC UTILITY.—Subsection  
 21               (i) of section 451 is amended by redesignating para-  
 22               graphs (6) through (10) as paragraphs (7) through

1 (11), respectively, and by inserting after paragraph  
 2 (5) the following new paragraph:

3 “(6) QUALIFIED ELECTRIC UTILITY.—For pur-  
 4 poses of this subsection, the term ‘qualified electric  
 5 utility’ means a person that, as of the date of the  
 6 qualifying electric transmission transaction, is  
 7 vertically integrated, in that it is both—

8 “(A) a transmitting utility (as defined in  
 9 section 3(23) of the Federal Power Act (16  
 10 U.S.C. 796(23))) with respect to the trans-  
 11 mission facilities to which the election under  
 12 this subsection applies, and

13 “(B) an electric utility (as defined in sec-  
 14 tion 3(22) of the Federal Power Act (16 U.S.C.  
 15 796(22))).”.

16 (b) EXTENSION OF PERIOD FOR TRANSFER OF  
 17 OPERATIONAL CONTROL AUTHORIZED BY FERC.—  
 18 Clause (ii) of section 451(i)(4)(B) is amended by striking  
 19 “December 31, 2007” and inserting “the date which is  
 20 4 years after the close of the taxable year in which the  
 21 transaction occurs”.

22 (c) PROPERTY LOCATED OUTSIDE THE UNITED  
 23 STATES NOT TREATED AS EXEMPT UTILITY PROP-  
 24 erty.—Paragraph (5) of section 451(i) is amended by  
 25 adding at the end the following new subparagraph:

1                   “(C) EXCEPTION FOR PROPERTY LOCATED  
 2                   OUTSIDE THE UNITED STATES.—The term ‘ex-  
 3                   empt utility property’ shall not include any  
 4                   property which is located outside the United  
 5                   States.”.

6                   (d) EFFECTIVE DATES.—

7                   (1) EXTENSION.—The amendments made by  
 8                   subsection (a) shall apply to transactions after De-  
 9                   cember 31, 2007.

10                  (2) TRANSFERS OF OPERATIONAL CONTROL.—  
 11                  The amendment made by subsection (b) shall take  
 12                  effect as if included in section 909 of the American  
 13                  Jobs Creation Act of 2004.

14                  (3) EXCEPTION FOR PROPERTY LOCATED OUT-  
 15                  SIDE THE UNITED STATES.—The amendment made  
 16                  by subsection (c) shall apply to transactions after  
 17                  the date of the enactment of this Act.

18   **SEC. 106. EXTENSION AND MODIFICATION OF CREDIT FOR**  
 19                               **RESIDENTIAL ENERGY EFFICIENT PROP-**  
 20                               **ERTY.**

21                  (a) EXTENSION.—Section 25D(g) (relating to termi-  
 22                  nation) is amended by striking “December 31, 2008” and  
 23                  inserting “December 31, 2014”.

24                  (b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROP-  
 25                  ERTY.—

1           (1) IN GENERAL.—Section 25D(b)(1)(A) (relat-  
 2       ing to maximum credit) is amended by striking  
 3       “\$2,000” and inserting “\$4,000”.

4           (2) CONFORMING AMENDMENT.—Section  
 5       25D(e)(4)(A)(i) is amended by striking “\$6,667”  
 6       and inserting “\$13,333”.

7       (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

8           (1) IN GENERAL.—Section 25D(a) (relating to  
 9       allowance of credit) is amended by striking “and” at  
 10      the end of paragraph (2), by striking the period at  
 11      the end of paragraph (3) and inserting “, and”, and  
 12      by adding at the end the following new paragraph:

13           “(4) 30 percent of the qualified small wind en-  
 14      ergy property expenditures made by the taxpayer  
 15      during such year.”.

16          (2) LIMITATION.—Section 25D(b)(1) (relating  
 17      to maximum credit) is amended by striking “and” at  
 18      the end of subparagraph (B), by striking the period  
 19      at the end of subparagraph (C) and inserting “,  
 20      and”, and by adding at the end the following new  
 21      subparagraph:

22           “(D) \$500 with respect to each half kilo-  
 23      watt of capacity (not to exceed \$4,000) of wind  
 24      turbines for which qualified small wind energy  
 25      property expenditures are made.”.

1           (3) QUALIFIED SMALL WIND ENERGY PROP-  
2       ERTY EXPENDITURES.—

3           (A) IN GENERAL.—Section 25D(d) (relat-  
4       ing to definitions) is amended by adding at the  
5       end the following new paragraph:

6           “(4) QUALIFIED SMALL WIND ENERGY PROP-  
7       ERTY EXPENDITURE.—The term ‘qualified small  
8       wind energy property expenditure’ means an expend-  
9       iture for property which uses a wind turbine to gen-  
10      erate electricity for use in connection with a dwelling  
11      unit located in the United States and used as a resi-  
12      dence by the taxpayer.”.

13          (B) NO DOUBLE BENEFIT.—Section  
14       45(d)(1) (relating to wind facility) is amended  
15       by adding at the end the following new sen-  
16       tence: “Such term shall not include any facility  
17       with respect to which any qualified small wind  
18       energy property expenditure (as defined in sub-  
19       section (d)(4) of section 25D) is taken into ac-  
20       count in determining the credit under such sec-  
21       tion.”.

22          (4) MAXIMUM EXPENDITURES IN CASE OF  
23       JOINT OCCUPANCY.—Section 25D(e)(4)(A) (relating  
24       to maximum expenditures) is amended by striking  
25       “and” at the end of clause (ii), by striking the pe-

1 riod at the end of clause (iii) and inserting “, and”,  
 2 and by adding at the end the following new clause:

3 “(iv) \$1,667 in the case of each half  
 4 kilowatt of capacity (not to exceed  
 5 \$13,333) of wind turbines for which quali-  
 6 fied small wind energy property expendi-  
 7 tures are made.”.

8 (d) CREDIT FOR GEOTHERMAL HEAT PUMP SYS-  
 9 TEMS.—

10 (1) IN GENERAL.—Section 25D(a) (relating to  
 11 allowance of credit), as amended by subsection (c),  
 12 is amended by striking “and” at the end of para-  
 13 graph (3), by striking the period at the end of para-  
 14 graph (4) and inserting “, and”, and by adding at  
 15 the end the following new paragraph:

16 “(5) 30 percent of the qualified geothermal  
 17 heat pump property expenditures made by the tax-  
 18 payer during such year.”.

19 (2) LIMITATION.—Section 25D(b)(1) (relating  
 20 to maximum credit), as amended by subsection (c),  
 21 is amended by striking “and” at the end of subpara-  
 22 graph (C), by striking the period at the end of sub-  
 23 paragraph (D) and inserting “, and”, and by adding  
 24 at the end the following new subparagraph:

1           “(E) \$2,000 with respect to any qualified  
2           geothermal heat pump property expenditures.”.

3           (3) QUALIFIED GEOTHERMAL HEAT PUMP  
4           PROPERTY EXPENDITURE.—Section 25D(d) (relat-  
5           ing to definitions), as amended by subsection (c), is  
6           amended by adding at the end the following new  
7           paragraph:

8           “(5) QUALIFIED GEOTHERMAL HEAT PUMP  
9           PROPERTY EXPENDITURE.—

10           “(A) IN GENERAL.—The term ‘qualified  
11           geothermal heat pump property expenditure’  
12           means an expenditure for qualified geothermal  
13           heat pump property installed on or in connec-  
14           tion with a dwelling unit located in the United  
15           States and used as a residence by the taxpayer.

16           “(B) QUALIFIED GEOTHERMAL HEAT  
17           PUMP PROPERTY.—The term ‘qualified geo-  
18           thermal heat pump property’ means any equip-  
19           ment which—

20           “(i) uses the ground or ground water  
21           as a thermal energy source to heat the  
22           dwelling unit referred to in subparagraph  
23           (A) or as a thermal energy sink to cool  
24           such dwelling unit, and



1 “(ii) meets the requirements of the  
 2 Energy Star program which are in effect  
 3 at the time that the expenditure for such  
 4 equipment is made.”.

5 (4) MAXIMUM EXPENDITURES IN CASE OF  
 6 JOINT OCCUPANCY.—Section 25D(e)(4)(A) (relating  
 7 to maximum expenditures), as amended by sub-  
 8 section (c), is amended by striking “and” at the end  
 9 of clause (iii), by striking the period at the end of  
 10 clause (iv) and inserting “, and”, and by adding at  
 11 the end the following new clause:

12 “(v) \$6,667 in the case of any quali-  
 13 fied geothermal heat pump property ex-  
 14 penditures.”.

15 (e) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-  
 16 IMUM TAX.—

17 (1) IN GENERAL.—Subsection (c) of section  
 18 25D is amended to read as follows:

19 “(c) LIMITATION BASED ON AMOUNT OF TAX;  
 20 CARRYFORWARD OF UNUSED CREDIT.—

21 “(1) LIMITATION BASED ON AMOUNT OF  
 22 TAX.—In the case of a taxable year to which section  
 23 26(a)(2) does not apply, the credit allowed under  
 24 subsection (a) for the taxable year shall not exceed  
 25 the excess of—

1           “(A) the sum of the regular tax liability  
2           (as defined in section 26(b)) plus the tax im-  
3           posed by section 55, over

4           “(B) the sum of the credits allowable  
5           under this subpart (other than this section) and  
6           section 27 for the taxable year.

7           “(2) CARRYFORWARD OF UNUSED CREDIT.—

8           “(A) RULE FOR YEARS IN WHICH ALL  
9           PERSONAL CREDITS ALLOWED AGAINST REG-  
10          ULAR AND ALTERNATIVE MINIMUM TAX.—In  
11          the case of a taxable year to which section  
12          26(a)(2) applies, if the credit allowable under  
13          subsection (a) exceeds the limitation imposed by  
14          section 26(a)(2) for such taxable year reduced  
15          by the sum of the credits allowable under this  
16          subpart (other than this section), such excess  
17          shall be carried to the succeeding taxable year  
18          and added to the credit allowable under sub-  
19          section (a) for such succeeding taxable year.

20          “(B) RULE FOR OTHER YEARS.—In the  
21          case of a taxable year to which section 26(a)(2)  
22          does not apply, if the credit allowable under  
23          subsection (a) exceeds the limitation imposed by  
24          paragraph (1) for such taxable year, such ex-  
25          cess shall be carried to the succeeding taxable

1           year and added to the credit allowable under  
2           subsection (a) for such succeeding taxable  
3           year.”.

4           (2) CONFORMING AMENDMENTS.—

5                 (A) Section 23(b)(4)(B) is amended by in-  
6                 serting “and section 25D” after “this section”.

7                 (B) Section 24(b)(3)(B) is amended by  
8                 striking “and 25B” and inserting “, 25B, and  
9                 25D”.

10                (C) Section 25B(g)(2) is amended by strik-  
11                ing “section 23” and inserting “sections 23 and  
12                25D”.

13                (D) Section 26(a)(1) is amended by strik-  
14                ing “and 25B” and inserting “25B, and 25D”.

15           (f) EFFECTIVE DATE.—

16                 (1) IN GENERAL.—The amendments made by  
17                 this section shall apply to taxable years beginning  
18                 after December 31, 2007.

19                 (2) APPLICATION OF EGTRRA SUNSET.—The  
20                 amendments made by subparagraphs (A) and (B) of  
21                 subsection (e)(2) shall be subject to title IX of the  
22                 Economic Growth and Tax Relief Reconciliation Act  
23                 of 2001 in the same manner as the provisions of  
24                 such Act to which such amendments relate.

## **TITLE II—CONSERVATION**

### **Subtitle A—Transportation**

#### **PART 1—VEHICLES**

##### **SEC. 201. CREDIT FOR PLUG-IN HYBRID VEHICLES.**

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following new section:

##### **“SEC. 30D. PLUG-IN HYBRID VEHICLES.**

“(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each qualified plug-in hybrid vehicle placed in service by the taxpayer during the taxable year.

“(b) PER VEHICLE DOLLAR LIMITATION.—

“(1) IN GENERAL.—The amount determined under this subsection with respect to any qualified plug-in hybrid vehicle is the sum of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

“(2) BASE AMOUNT.—The amount determined under this paragraph is \$4,000.

“(3) BATTERY CAPACITY.—In the case of vehicle which draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, the

1 amount determined under this paragraph is \$200,  
2 plus \$200 for each kilowatt hour of capacity in ex-  
3 cess of 5 kilowatt hours. The amount determined  
4 under this paragraph shall not exceed \$2,000.

5 “(c) APPLICATION WITH OTHER CREDITS.—

6 “(1) BUSINESS CREDIT TREATED AS PART OF  
7 GENERAL BUSINESS CREDIT.—So much of the credit  
8 which would be allowed under subsection (a) for any  
9 taxable year (determined without regard to this sub-  
10 section) that is attributable to property of a char-  
11 acter subject to an allowance for depreciation shall  
12 be treated as a credit listed in section 38(b) for such  
13 taxable year (and not allowed under subsection (a)).

14 “(2) PERSONAL CREDIT.—

15 “(A) IN GENERAL.—For purposes of this  
16 title, the credit allowed under subsection (a) for  
17 any taxable year (determined after application  
18 of paragraph (1)) shall be treated as a credit  
19 allowable under subpart A for such taxable  
20 year.

21 “(B) LIMITATION BASED ON AMOUNT OF  
22 TAX.—In the case of a taxable year to which  
23 section 26(a)(2) does not apply, the credit al-  
24 lowed under subsection (a) for any taxable year

1 (determined after application of paragraph (1))  
 2 shall not exceed the excess of—

3 “(i) the sum of the regular tax liabil-  
 4 ity (as defined in section 26(b)) plus the  
 5 tax imposed by section 55, over

6 “(ii) the sum of the credits allowable  
 7 under subpart A (other than this section  
 8 and sections 23 and 25D) and section 27  
 9 for the taxable year.

10 “(d) QUALIFIED PLUG-IN HYBRID VEHICLE.—For  
 11 purposes of this section—

12 “(1) IN GENERAL.—The term ‘qualified plug-in  
 13 hybrid vehicle’ means a motor vehicle (as defined in  
 14 section 30(c)(2))—

15 “(A) the original use of which commences  
 16 with the taxpayer,

17 “(B) which is acquired for use or lease by  
 18 the taxpayer and not for resale,

19 “(C) which is made by a manufacturer,

20 “(D) which has a gross vehicle weight rat-  
 21 ing of less than 14,000 pounds,

22 “(E) which has received a certificate of  
 23 conformity under the Clean Air Act and meets  
 24 or exceeds the Bin 5 Tier II emission standard  
 25 established in regulations prescribed by the Ad-

1           ministrator of the Environmental Protection  
2           Agency under section 202(i) of the Clean Air  
3           Act for that make and model year vehicle,

4           “(F) which is propelled to a significant ex-  
5           tent by an electric motor which draws electricity  
6           from a battery which—

7           “(i) has a capacity of not less than 4  
8           kilowatt hours, and

9           “(ii) is capable of being recharged  
10          from an external source of electricity, and

11          “(G) which either—

12          “(i) is also propelled to a significant  
13          extent by other than an electric motor, or

14          “(ii) has a significant onboard source  
15          of electricity which also recharges the bat-  
16          tery referred to in subparagraph (F).

17          “(2) EXCEPTION.—The term ‘qualified plug-in  
18          hybrid vehicle’ shall not include any vehicle which is  
19          not a passenger automobile or light truck if such ve-  
20          hicle has a gross vehicle weight rating of less than  
21          8,500 pounds.

22          “(3) OTHER TERMS.—The terms ‘passenger  
23          automobile’, ‘light truck’, and ‘manufacturer’ have  
24          the meanings given such terms in regulations pre-  
25          scribed by the Administrator of the Environmental

1 Protection Agency for purposes of the administra-  
2 tion of title II of the Clean Air Act (42 U.S.C. 7521  
3 et seq.).

4 “(4) BATTERY CAPACITY.—The term ‘capacity’  
5 means, with respect to any battery, the quantity of  
6 electricity which the battery is capable of storing, ex-  
7 pressed in kilowatt hours, as measured from a 100  
8 percent state of charge to a 0 percent state of  
9 charge.

10 “(e) LIMITATION ON NUMBER OF QUALIFIED PLUG-  
11 IN HYBRID VEHICLES ELIGIBLE FOR CREDIT.—

12 “(1) IN GENERAL.—In the case of a qualified  
13 plug-in hybrid vehicle sold during the phaseout pe-  
14 riod, only the applicable percentage of the credit oth-  
15 erwise allowable under subsection (a) shall be al-  
16 lowed.

17 “(2) PHASEOUT PERIOD.—For purposes of this  
18 subsection, the phaseout period is the period begin-  
19 ning with the second calendar quarter following the  
20 calendar quarter which includes the first date on  
21 which the number of qualified plug-in hybrid vehicles  
22 manufactured by the manufacturer of the vehicle re-  
23 ferred to in paragraph (1) sold for use in the United  
24 States after the date of the enactment of this sec-  
25 tion, is at least 60,000.



1           “(3) APPLICABLE PERCENTAGE.—For purposes  
2 of paragraph (1), the applicable percentage is—

3           “(A) 50 percent for the first 2 calendar  
4 quarters of the phaseout period,

5           “(B) 25 percent for the 3d and 4th cal-  
6 endar quarters of the phaseout period, and

7           “(C) 0 percent for each calendar quarter  
8 thereafter.

9           “(4) CONTROLLED GROUPS.—Rules similar to  
10 the rules of section 30B(f)(4) shall apply for pur-  
11 poses of this subsection.

12       “(f) SPECIAL RULES.—

13           “(1) BASIS REDUCTION.—The basis of any  
14 property for which a credit is allowable under sub-  
15 section (a) shall be reduced by the amount of such  
16 credit (determined without regard to subsection (c)).

17           “(2) RECAPTURE.—The Secretary shall, by reg-  
18 ulations, provide for recapturing the benefit of any  
19 credit allowable under subsection (a) with respect to  
20 any property which ceases to be property eligible for  
21 such credit.

22           “(3) PROPERTY USED OUTSIDE UNITED  
23 STATES, ETC., NOT QUALIFIED.—No credit shall be  
24 allowed under subsection (a) with respect to any  
25 property referred to in section 50(b)(1) or with re-

1       spect to the portion of the cost of any property  
2       taken into account under section 179.

3               “(4) ELECTION NOT TO TAKE CREDIT.—No  
4       credit shall be allowed under subsection (a) for any  
5       vehicle if the taxpayer elects to not have this section  
6       apply to such vehicle.

7               “(5) PROPERTY USED BY TAX-EXEMPT ENTITY;  
8       INTERACTION WITH AIR QUALITY AND MOTOR VEHI-  
9       CLE SAFETY STANDARDS.—Rules similar to the rules  
10      of paragraphs (6) and (10) of section 30B(h) shall  
11      apply for purposes of this section.”.

12      (b) PLUG-IN VEHICLES NOT TREATED AS NEW  
13      QUALIFIED HYBRID VEHICLES.—Section 30B(d)(3) is  
14      amended by adding at the end the following new subpara-  
15      graph:

16               “(D) EXCLUSION OF PLUG-IN VEHICLES.—  
17              Any vehicle with respect to which a credit is al-  
18              lowable under section 30D (determined without  
19              regard to subsection (c) thereof) shall not be  
20              taken into account under this section.”.

21      (c) CREDIT MADE PART OF GENERAL BUSINESS  
22      CREDIT.—Section 38(b) is amended—

23              (1) by striking “and” each place it appears at  
24      the end of any paragraph,

1           (2) by striking “plus” each place it appears at  
2           the end of any paragraph,

3           (3) by striking the period at the end of para-  
4           graph (31) and inserting “, plus”, and

5           (4) by adding at the end the following new  
6           paragraph:

7           “(32) the portion of the plug-in hybrid vehicle  
8           credit to which section 30D(c)(1) applies.”.

9           (d) CONFORMING AMENDMENTS.—

10           (1)(A) Section 24(b)(3)(B), as amended by this  
11           Act, is amended by striking “and 25D” and insert-  
12           ing “25D, and 30D”.

13           (B) Section 25(e)(1)(C)(ii) is amended by in-  
14           serting “30D,” after “25D,”.

15           (C) Section 25B(g)(2), as amended by this Act,  
16           is amended by striking “and 25D” and inserting “,  
17           25D, and 30D”.

18           (D) Section 26(a)(1), as amended by this Act,  
19           is amended by striking “and 25D” and inserting  
20           “25D, and 30D”.

21           (E) Section 1400C(d)(2) is amended by striking  
22           “and 25D” and inserting “25D, and 30D”.

23           (2) Section 1016(a) is amended by striking  
24           “and” at the end of paragraph (35), by striking the  
25           period at the end of paragraph (36) and inserting “,

1 and”, and by adding at the end the following new  
2 paragraph:

3 “(37) to the extent provided in section  
4 30D(f)(1).”.

5 (3) Section 6501(m) is amended by inserting  
6 “30D(f)(4),” after “30C(e)(5),”.

7 (4) The table of sections for subpart B of part  
8 IV of subchapter A of chapter 1 is amended by add-  
9 ing at the end the following new item:

“Sec. 30D. Plug-in hybrid vehicles.”.

10 (e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE  
11 CREDIT AS A PERSONAL CREDIT.—

12 (1) IN GENERAL.—Paragraph (2) of section  
13 30B(g) is amended to read as follows:

14 “(2) PERSONAL CREDIT.—The credit allowed  
15 under subsection (a) for any taxable year (after ap-  
16 plication of paragraph (1)) shall be treated as a  
17 credit allowable under subpart A for such taxable  
18 year.”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Subparagraph (A) of section 30C(d)(2)  
21 is amended by striking “sections 27, 30, and  
22 30B” and inserting “sections 27 and 30”.

23 (B) Paragraph (3) of section 55(c) is  
24 amended by striking “30B(g)(2),”.

25 (f) EFFECTIVE DATE.—

1           (1) IN GENERAL.—Except as otherwise pro-  
 2       vided in this subsection, the amendments made by  
 3       this section shall apply to taxable years beginning  
 4       after December 31, 2008.

5           (2) TREATMENT OF ALTERNATIVE MOTOR VE-  
 6       HICLE CREDIT AS PERSONAL CREDIT.—The amend-  
 7       ments made by subsection (e) shall apply to taxable  
 8       years beginning after December 31, 2007.

9           (g) APPLICATION OF EGTRRA SUNSET.—The  
 10      amendment made by subsection (d)(1)(A) shall be subject  
 11      to title IX of the Economic Growth and Tax Relief Rec-  
 12      onciliation Act of 2001 in the same manner as the provi-  
 13      sion of such Act to which such amendment relates.

14   **SEC. 202. EXTENSION AND MODIFICATION OF ALTER-**  
 15                   **NATIVE FUEL VEHICLE REFUELING PROP-**  
 16                   **ERTY CREDIT.**

17           (a) INCREASE IN CREDIT AMOUNT.—Section 30C  
 18      (relating to alternative fuel vehicle refueling property cred-  
 19      it) is amended—

20           (1) by striking “30 percent” in subsection (a)  
 21      and inserting “50 percent”, and

22           (2) by striking “\$30,000” in subsection (b)(1)  
 23      and inserting “\$50,000”.

24           (b) EXTENSION OF CREDIT.—Paragraph (2) of sec-  
 25      tion 30C(g) (relating to termination) is amended by strik-

1 ing “December 31, 2009” and inserting “December 31,  
2 2010”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to property placed in service after  
5 the date of the enactment of this Act, in taxable years  
6 ending after such date.

7 **SEC. 203. MODIFICATION OF LIMITATION ON AUTOMOBILE**  
8 **DEPRECIATION.**

9 (a) IN GENERAL.—Paragraph (5) of section 280F(d)  
10 (defining passenger automobile) is amended to read as fol-  
11 lows:

12 “(5) PASSENGER AUTOMOBILE.—

13 “(A) IN GENERAL.—Except as provided in  
14 subparagraph (B), the term ‘passenger auto-  
15 mobile’ means any 4-wheeled vehicle—

16 “(i) which is primarily designed or  
17 which can be used to carry passengers over  
18 public streets, roads, or highways (except  
19 any vehicle operated exclusively on a rail or  
20 rails), and

21 “(ii) which is rated at not more than  
22 14,000 pounds gross vehicle weight.

23 “(B) EXCEPTIONS.—The term ‘passenger  
24 automobile’ shall not include—

25 “(i) any exempt-design vehicle, and

1 “(ii) any exempt-use vehicle.

2 “(C) EXEMPT-DESIGN VEHICLE.—The  
3 term ‘exempt-design vehicle’ means—

4 “(i) any vehicle which, by reason of its  
5 nature or design, is not likely to be used  
6 more than a de minimis amount for per-  
7 sonal purposes, and

8 “(ii) any vehicle—

9 “(I) which is designed to have a  
10 seating capacity of more than 9 per-  
11 sons behind the driver’s seat,

12 “(II) which is equipped with a  
13 cargo area of at least 5 feet in interior  
14 length which is an open area or is de-  
15 signed for use as an open area but is  
16 enclosed by a cap and is not readily  
17 accessible directly from the passenger  
18 compartment, or

19 “(III) has an integral enclosure,  
20 fully enclosing the driver compartment  
21 and load carrying device, does not  
22 have seating rearward of the driver’s  
23 seat, and has no body section pro-  
24 truding more than 30 inches ahead of  
25 the leading edge of the windshield.

1           “(D) EXEMPT-USE VEHICLE.—The term  
2           ‘exempt-use vehicle’ means—

3                   “(i) any ambulance, hearse, or com-  
4                   bination ambulance-hearse used by the tax-  
5                   payer directly in a trade or business,

6                   “(ii) any vehicle used by the taxpayer  
7                   directly in the trade or business of trans-  
8                   porting persons or property for compensa-  
9                   tion or hire, and

10                  “(iii) any truck or van if substantially  
11                  all of the use of such vehicle by the tax-  
12                  payer is directly in—

13                          “(I) a farming business (within  
14                          the meaning of section 263A(e)(4)),

15                          “(II) the transportation of a sub-  
16                          stantial amount of equipment, sup-  
17                          plies, or inventory, or

18                          “(III) the moving or delivery of  
19                          property which requires substantial  
20                          cargo capacity.

21           “(E) RECAPTURE.—In the case of any ve-  
22           hicle which is not a passenger automobile by  
23           reason of being an exempt-use vehicle, if such  
24           vehicle ceases to be an exempt-use vehicle in  
25           any taxable year after the taxable year in which



(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

10 SEC. 211. EXTENSION AND MODIFICATION OF CREDITS FOR  
11 BIODIESEL AND RENEWABLE DIESEL.

(b) UNIFORM TREATMENT OF DIESEL PRODUCED FROM BIOMASS.—Paragraph (3) of section 40A(f) is amended—

(2) by striking “using a thermal depolymerization process”, and

(3) by striking “or D396” in subparagraph (B) and inserting “or other equivalent standard approved by the Secretary for fuels to be used in diesel-powered highway vehicles”.

1       (c) COPRODUCTION OF RENEWABLE DIESEL WITH  
2 PETROLEUM FEEDSTOCK.—

3           (1) IN GENERAL.—Paragraph (3) of section  
4 40A(f) (defining renewable diesel) is amended by  
5 adding at the end the following flush sentence:

6       “Such term does not include any fuel derived from  
7 coprocessing biomass with a feedstock which is not  
8 biomass. For purposes of this paragraph, the term  
9 ‘biomass’ has the meaning given such term by sec-  
10 tion 45K(c)(3).”.

11          (2) CONFORMING AMENDMENT.—Paragraph (3)  
12 of section 40A(f) is amended by striking “(as de-  
13 fined in section 45K(c)(3))”.

14       (d) EFFECTIVE DATE.—

15          (1) IN GENERAL.—Except as otherwise pro-  
16 vided in this subsection, the amendments made by  
17 this section shall apply to fuel produced, and sold or  
18 used, after December 31, 2008.

19          (2) COPRODUCTION OF RENEWABLE DIESEL  
20 WITH PETROLEUM FEEDSTOCK.—The amendments  
21 made by subsection (c) shall apply to fuel produced,  
22 and sold or used, after February 13, 2008.

1 **SEC. 212. CLARIFICATION THAT CREDITS FOR FUEL ARE**  
2 **DESIGNED TO PROVIDE AN INCENTIVE FOR**  
3 **UNITED STATES PRODUCTION.**

4 (a) BIODIESEL FUELS CREDIT.—Paragraph (5) of  
5 section 40A(d), as added by subsection (c), is amended  
6 to read as follows:

7 “(5) LIMITATION TO BIODIESEL WITH CONNEC-  
8 TION TO THE UNITED STATES.—No credit shall be  
9 determined under this section with respect to any  
10 biodiesel unless—

11 “(A) such biodiesel is produced in the  
12 United States for use as a fuel in the United  
13 States, and

14 “(B) the taxpayer obtains a certification  
15 (in such form and manner as prescribed by the  
16 Secretary) from the producer of the biodiesel  
17 which identifies the product produced and the  
18 location of such production.

19 For purposes of this paragraph, the term ‘United  
20 States’ includes any possession of the United  
21 States.”.

22 (b) EXCISE TAX CREDIT.—Paragraph (2) of section  
23 6426(h), as added by subsection (c), is amended to read  
24 as follows:

25 “(2) BIODIESEL AND ALTERNATIVE FUELS.—  
26 No credit shall be determined under this section

1 with respect to any biodiesel or alternative fuel un-  
2 less—

3 “(A) such biodiesel or alternative fuel is  
4 produced in the United States for use as a fuel  
5 in the United States, and

6 “(B) the taxpayer obtains a certification  
7 (in such form and manner as prescribed by the  
8 Secretary) from the producer of such biodiesel  
9 or alternative fuel which identifies the product  
10 produced and the location of such production.”.

11 (c) PROVISIONS CLARIFYING TREATMENT OF FUELS  
12 WITH NO NEXUS TO THE UNITED STATES.—

13 (1) ALCOHOL FUELS CREDIT.—Subsection (d)  
14 of section 40 is amended by adding at the end the  
15 following new paragraph:

16 “(6) LIMITATION TO ALCOHOL WITH CONNEC-  
17 TION TO THE UNITED STATES.—No credit shall be  
18 determined under this section with respect to any al-  
19 cohol which is produced outside the United States  
20 for use as a fuel outside the United States. For pur-  
21 poses of this paragraph, the term ‘United States’ in-  
22 cludes any possession of the United States.”.

23 (2) BIODIESEL FUELS CREDIT.—Subsection (d)  
24 of section 40A is amended by adding at the end the  
25 following new paragraph:

1           “(5) LIMITATION TO BIODIESEL WITH CONNEC-  
2           TION TO THE UNITED STATES.—No credit shall be  
3           determined under this section with respect to any  
4           biodiesel which is produced outside the United  
5           States for use as a fuel outside the United States.  
6           For purposes of this paragraph, the term ‘United  
7           States’ includes any possession of the United  
8           States.”.

9           (3) EXCISE TAX CREDIT.—

10           (A) IN GENERAL.—Section 6426 is amend-  
11           ed by adding at the end the following new sub-  
12           section:

13           “(h) LIMITATION TO FUELS WITH CONNECTION TO  
14           THE UNITED STATES.—

15           “(1) ALCOHOL.—No credit shall be determined  
16           under this section with respect to any alcohol which  
17           is produced outside the United States for use as a  
18           fuel outside the United States.

19           “(2) BIODIESEL AND ALTERNATIVE FUELS.—  
20           No credit shall be determined under this section  
21           with respect to any biodiesel or alternative fuel  
22           which is produced outside the United States for use  
23           as a fuel outside the United States.

24           For purposes of this subsection, the term ‘United States’  
25           includes any possession of the United States.”.

1                   (B) CONFORMING AMENDMENT.—Sub-  
2                   section (e) of section 6427 is amended by redes-  
3                   ignating paragraph (5) as paragraph (6) and by  
4                   inserting after paragraph (4) the following new  
5                   paragraph:

6                   “(5) LIMITATION TO FUELS WITH CONNECTION  
7                   TO THE UNITED STATES.—No amount shall be pay-  
8                   able under paragraph (1) or (2) with respect to any  
9                   mixture or alternative fuel if credit is not allowed  
10                  with respect to such mixture or alternative fuel by  
11                  reason of section 6426(h).”.

12               (d) EFFECTIVE DATE.—

13               (1) IN GENERAL.—Except as provided in para-  
14               graph (2), the amendments made by this section  
15               shall apply to fuel produced, and sold or used, after  
16               December 31, 2008.

17               (2) PROVISIONS CLARIFYING TREATMENT OF  
18               FUELS WITH NO NEXUS TO THE UNITED STATES.—

19               (A) IN GENERAL.—Except as otherwise  
20               provided in this paragraph, the amendments  
21               made by subsection (c) shall take effect as if in-  
22               cluded in section 301 of the American Jobs  
23               Creation Act of 2004.

24               (B) ALTERNATIVE FUEL CREDITS.—So  
25               much of the amendments made by subsection

(c) as relate to the alternative fuel credit or the alternative fuel mixture credit shall take effect as if included in section 11113 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

(C) RENEWABLE DIESEL.—So much of the amendments made by subsection (c) as relate to renewable diesel shall take effect as if included in section 1346 of the Energy Policy Act of 2005.

**SEC. 213. CREDIT FOR PRODUCTION OF CELLULOSIC ALCOHOL.**

(a) IN GENERAL.—Subsection (b) of section 40 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) CELLULOSIC ALCOHOL FUEL PRODUCER CREDIT.—

“(A) IN GENERAL.—The cellulosic alcohol fuel producer credit of any cellulosic alcohol fuel producer for any taxable year is 50 cents for each gallon of qualified cellulosic fuel production of such producer.

“(B) QUALIFIED CELLULOSIC FUEL PRODUCTION.—For purposes of this paragraph, the

1 term ‘qualified cellulosic fuel production’ means  
2 any cellulosic alcohol which is produced by a  
3 cellulosic alcohol fuel producer, and which dur-  
4 ing the taxable year—

5 “(i) is sold by such producer to an-  
6 other person—

7 “(I) for use by such other person  
8 in the production of a qualified mix-  
9 ture in such other person’s trade or  
10 business (other than casual off-farm  
11 production),

12 “(II) for use by such other per-  
13 son as a fuel in a trade or business,  
14 or

15 “(III) who sells such alcohol at  
16 retail to another person and places  
17 such alcohol in the fuel tank of such  
18 other person, or

19 “(ii) is used or sold by such producer  
20 for any purpose described in clause (i).

21 “(C) CELLULOSIC ALCOHOL.—For pur-  
22 poses of this paragraph, the term ‘cellulosic al-  
23 cohol’ means any alcohol which—

24 “(i) is produced in the United States  
25 for use as a fuel in the United States, and



1                   “(ii)     is     derived     from     any  
2                   lignocellulosic or hemicellulosic matter that  
3                   is available on a renewable or recurring  
4                   basis.

5                   For purposes of this subparagraph, the term  
6                   ‘United States’ includes any possession of the  
7                   United States.

8                   “(D) CELLULOSIC ALCOHOL FUEL PRO-  
9                   DUCER.—For purposes of this paragraph, the  
10                  term ‘cellulosic alcohol fuel producer’ means  
11                  any person who produces cellulosic alcohol in a  
12                  trade or business and is registered with the  
13                  Secretary as a cellulosic alcohol fuel producer.

14                  “(E) ADDITIONAL DISTILLATION EX-  
15                  CLUDED.—The qualified cellulosic fuel produc-  
16                  tion of any producer for any taxable year shall  
17                  not include any alcohol which is purchased by  
18                  the producer and with respect to which such  
19                  producer increases the proof of the alcohol by  
20                  additional distillation.”.

21                  (b) CONFORMING AMENDMENTS.—

22                  (1) Subsection (a) of section 40 is amended by  
23                  striking “plus” at the end of paragraph (1), by  
24                  striking “plus” at the end of paragraph (2), by  
25                  striking the period at the end of paragraph (3) and

1 inserting “, plus”, and by adding at the end the fol-  
 2 lowing new paragraph:

3 “(4) in the case of a cellulosic alcohol fuel pro-  
 4 ducer, the cellulosic alcohol fuel producer credit.”.

5 (2) Clause (ii) of section 40(d)(3)(C) is amend-  
 6 ed by striking “subsection (b)(4)(B)” and inserting  
 7 “paragraph (4)(B) or (5)(B) of subsection (b)”.

8 (c) EFFECTIVE DATE.—The amendments made by  
 9 this section shall apply to alcohol produced after December  
 10 31, 2008.

# 11 **PART 3—OTHER TRANSPORTATION INCENTIVES**

## 12 **SEC. 221. EXTENSION OF TRANSPORTATION FRINGE BEN-** 13 **EFIT TO BICYCLE COMMUTERS.**

14 (a) IN GENERAL.—Paragraph (1) of section 132(f)  
 15 (relating to general rule for qualified transportation  
 16 fringe) is amended by adding at the end the following:

17 “(D) Any qualified bicycle commuting re-  
 18 imbursement.”.

19 (b) LIMITATION ON EXCLUSION.—Paragraph (2) of  
 20 section 132(f) is amended by striking “and” at the end  
 21 of subparagraph (A), by striking the period at the end  
 22 of subparagraph (B) and inserting “, and”, and by adding  
 23 at the end the following new subparagraph:

1           “(C) the applicable annual limitation in  
2           the case of any qualified bicycle commuting re-  
3           imbursement.”.

4           (c) DEFINITIONS.—Paragraph (5) of section 132(f)  
5           (relating to definitions) is amended by adding at the end  
6           the following:

7                       “(F) DEFINITIONS RELATED TO BICYCLE  
8           COMMUTING REIMBURSEMENT.—

9                       “(i) QUALIFIED BICYCLE COMMUTING  
10           REIMBURSEMENT.—The term ‘qualified bi-  
11           cycle commuting reimbursement’ means,  
12           with respect to any calendar year, any em-  
13           ployer reimbursement during the 15-month  
14           period beginning with the first day of such  
15           calendar year for reasonable expenses in-  
16           curred by the employee during such cal-  
17           endar year for the purchase of a bicycle  
18           and bicycle improvements, repair, and stor-  
19           age, if such bicycle is regularly used for  
20           travel between the employee’s residence  
21           and place of employment.

22                      “(ii) APPLICABLE ANNUAL LIMITA-  
23           TION.—The term ‘applicable annual limita-  
24           tion’ means, with respect to any employee  
25           for any calendar year, the product of \$20

1 multiplied by the number of qualified bicy-  
2 cle commuting months during such year.

3 “(iii) QUALIFIED BICYCLE COM-  
4 MUTING MONTH.—The term ‘qualified bi-  
5 cycle commuting month’ means, with re-  
6 spect to any employee, any month during  
7 which such employee—

8 “(I) regularly uses the bicycle for  
9 a substantial portion of the travel be-  
10 tween the employee’s residence and  
11 place of employment, and

12 “(II) does not receive any benefit  
13 described in subparagraph (A), (B),  
14 or (C) of paragraph (1).”.

15 (d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Para-  
16 graph (4) of section 132(f) is amended by inserting  
17 “(other than a qualified bicycle commuting reimburse-  
18 ment)” after “qualified transportation fringe”.

19 (e) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to taxable years beginning after  
21 December 31, 2008.

1 **SEC. 222. RESTRUCTURING OF NEW YORK LIBERTY ZONE**  
 2 **TAX CREDITS.**

3 (a) IN GENERAL.—Part I of subchapter Y of chapter  
 4 1 is amended by redesignating section 1400L as section  
 5 1400K and by adding at the end the following new section:

6 **“SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.**

7 “(a) IN GENERAL.—In the case of a New York Lib-  
 8 erty Zone governmental unit, there shall be allowed as a  
 9 credit against any taxes imposed for any payroll period  
 10 by section 3402 for which such governmental unit is liable  
 11 under section 3403 an amount equal to so much of the  
 12 portion of the qualifying project expenditure amount allo-  
 13 cated under subsection (b)(3) to such governmental unit  
 14 for the calendar year as is allocated by such governmental  
 15 unit to such period under subsection (b)(4).

16 “(b) QUALIFYING PROJECT EXPENDITURE  
 17 AMOUNT.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualifying  
 19 project expenditure amount’ means, with respect to  
 20 any calendar year, the sum of—

21 “(A) the total expenditures paid or in-  
 22 curred during such calendar year by all New  
 23 York Liberty Zone governmental units and the  
 24 Port Authority of New York and New Jersey  
 25 for any portion of qualifying projects located

1 wholly within the City of New York, New York,  
2 and

3 “(B) any such expenditures—

4 “(i) paid or incurred in any preceding  
5 calendar year which begins after the date  
6 of enactment of this section, and

7 “(ii) not previously allocated under  
8 paragraph (3).

9 “(2) QUALIFYING PROJECT.—The term ‘quali-  
10 fying project’ means any transportation infrastruc-  
11 ture project, including highways, mass transit sys-  
12 tems, railroads, airports, ports, and waterways, in or  
13 connecting with the New York Liberty Zone (as de-  
14 fined in section 1400K(h)), which is designated as a  
15 qualifying project under this section jointly by the  
16 Governor of the State of New York and the Mayor  
17 of the City of New York, New York.

18 “(3) GENERAL ALLOCATION.—

19 “(A) IN GENERAL.—The Governor of the  
20 State of New York and the Mayor of the City  
21 of New York, New York, shall jointly allocate to  
22 each New York Liberty Zone governmental unit  
23 the portion of the qualifying project expenditure  
24 amount which may be taken into account by

1           such governmental unit under subsection (a) for  
2           any calendar year in the credit period.

3           “(B) AGGREGATE LIMIT.—The aggregate  
4           amount which may be allocated under subpara-  
5           graph (A) for all calendar years in the credit  
6           period shall not exceed \$2,000,000,000.

7           “(C) ANNUAL LIMIT.—The aggregate  
8           amount which may be allocated under subpara-  
9           graph (A) for any calendar year in the credit  
10          period shall not exceed the sum of—

11                   “(i) \$169,000,000, plus

12                   “(ii) the aggregate amount authorized  
13                   to be allocated under this paragraph for all  
14                   preceding calendar years in the credit pe-  
15                   riod which was not so allocated.

16          “(D) UNALLOCATED AMOUNTS AT END OF  
17          CREDIT PERIOD.—If, as of the close of the cred-  
18          it period, the amount under subparagraph (B)  
19          exceeds the aggregate amount allocated under  
20          subparagraph (A) for all calendar years in the  
21          credit period, the Governor of the State of New  
22          York and the Mayor of the City of New York,  
23          New York, may jointly allocate to New York  
24          Liberty Zone governmental units for any cal-

1           endar year in the 5-year period following the  
2           credit period an amount equal to—

3                   “(i) the lesser of—

4                           “(I) such excess, or

5                                   “(II) the qualifying project ex-  
6                                   penditure amount for such calendar  
7                                   year, reduced by

8                   “(ii) the aggregate amount allocated  
9                   under this subparagraph for all preceding  
10                  calendar years.

11               “(4) ALLOCATION TO PAYROLL PERIODS.—

12           Each New York Liberty Zone governmental unit  
13           which has been allocated a portion of the qualifying  
14           project expenditure amount under paragraph (3) for  
15           a calendar year may allocate such portion to payroll  
16           periods beginning in such calendar year as such gov-  
17           ernmental unit determines appropriate.

18               “(c) CARRYOVER OF UNUSED ALLOCATIONS.—

19                   “(1) IN GENERAL.—Except as provided in para-  
20                   graph (2), if the amount allocated under subsection  
21                   (b)(3) to a New York Liberty Zone governmental  
22                   unit for any calendar year exceeds the aggregate  
23                   taxes imposed by section 3402 for which such gov-  
24                   ernmental unit is liable under section 3403 for peri-  
25                   ods beginning in such year, such excess shall be car-



1       ried to the succeeding calendar year and added to  
 2       the allocation of such governmental unit for such  
 3       succeeding calendar year.

4               “(2) REALLOCATION.—If a New York Liberty  
 5       Zone governmental unit does not use an amount al-  
 6       located to it under subsection (b)(3) within the time  
 7       prescribed by the Governor of the State of New York  
 8       and the Mayor of the City of New York, New York,  
 9       then such amount shall after such time be treated  
 10      for purposes of subsection (b)(3) in the same man-  
 11      ner as if it had never been allocated.

12      “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
 13      poses of this section—

14              “(1) CREDIT PERIOD.—The term ‘credit period’  
 15      means the 12-year period beginning on January 1,  
 16      2008.

17              “(2) NEW YORK LIBERTY ZONE GOVERN-  
 18      MENTAL UNIT.—The term ‘New York Liberty Zone  
 19      governmental unit’ means—

20                  “(A) the State of New York,

21                  “(B) the City of New York, New York, and

22                  “(C) any agency or instrumentality of such  
 23      State or City.

24              “(3) TREATMENT OF FUNDS.—Any expenditure  
 25      for a qualifying project taken into account for pur-

1 poses of the credit under this section shall be consid-  
2 ered State and local funds for the purpose of any  
3 Federal program.

4 “(4) TREATMENT OF CREDIT AMOUNTS FOR  
5 PURPOSES OF WITHHOLDING TAXES.—For purposes  
6 of this title, a New York Liberty Zone governmental  
7 unit shall be treated as having paid to the Secretary,  
8 on the day on which wages are paid to employees,  
9 an amount equal to the amount of the credit allowed  
10 to such entity under subsection (a) with respect to  
11 such wages, but only if such governmental unit de-  
12 ducts and withholds wages for such payroll period  
13 under section 3401 (relating to wage withholding).

14 “(e) REPORTING.—The Governor of the State of New  
15 York and the Mayor of the City of New York, New York,  
16 shall jointly submit to the Secretary an annual report—

17 “(1) which certifies—

18 “(A) the qualifying project expenditure  
19 amount for the calendar year, and

20 “(B) the amount allocated to each New  
21 York Liberty Zone governmental unit under  
22 subsection (b)(3) for the calendar year, and

23 “(2) includes such other information as the  
24 Secretary may require to carry out this section.

1 “(f) GUIDANCE.—The Secretary may prescribe such  
 2 guidance as may be necessary or appropriate to ensure  
 3 compliance with the purposes of this section.”.

4 (b) TERMINATION OF SPECIAL ALLOWANCE AND EX-  
 5 PENSING.—Subparagraph (A) of section 1400K(b)(2), as  
 6 redesignated by subsection (a), is amended by striking the  
 7 parenthetical in the flush language after clause (v) thereof  
 8 and inserting “(in the case of nonresidential real property  
 9 and residential rental property, the date of the enactment  
 10 of the Renewable Energy and Energy Conservation Tax  
 11 Act of 2008 or, if acquired pursuant to a binding contract  
 12 in effect on such enactment date, December 31, 2009)”.

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 38(c)(3)(B) is amended by striking  
 15 “section 1400L(a)” and inserting “section  
 16 1400K(a)”.

17 (2) Section 168(k)(2)(D)(ii) is amended by  
 18 striking “section 1400L(c)(2)” and inserting “sec-  
 19 tion 1400K(c)(2)”.

20 (3) The table of sections for part I of sub-  
 21 chapter Y of chapter 1 is amended by redesignating  
 22 the item relating to section 1400L as an item relat-  
 23 ing to section 1400K and by inserting after such  
 24 item the following new item:

“Sec. 1400L. New York Liberty Zone tax credits.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
 2 this section shall take effect on the date of the enactment  
 3 of this Act.

## 4 **Subtitle B—Other Conservation** 5 **Provisions**

### 6 **SEC. 231. QUALIFIED ENERGY CONSERVATION BONDS.**

7 (a) IN GENERAL.—Subpart I of part IV of sub-  
 8 chapter A of chapter 1, as added by section 104, is amend-  
 9 ed by adding at the end the following new section:

#### 10 **“SEC. 54C. QUALIFIED ENERGY CONSERVATION BONDS.**

11 “(a) QUALIFIED ENERGY CONSERVATION BOND.—  
 12 For purposes of this subchapter, the term ‘qualified en-  
 13 ergy conservation bond’ means any bond issued as part  
 14 of an issue if—

15 “(1) 100 percent of the available project pro-  
 16 ceeds of such issue are to be used for one or more  
 17 qualified conservation purposes,

18 “(2) the bond is issued by a State or local gov-  
 19 ernment, and

20 “(3) the issuer designates such bond for pur-  
 21 poses of this section.

22 “(b) LIMITATION ON AMOUNT OF BONDS DES-  
 23 IGNATED.—The maximum aggregate face amount of  
 24 bonds which may be designated under subsection (a) by

1 any issuer shall not exceed the limitation amount allocated  
2 to such issuer under subsection (d).

3 “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS  
4 DESIGNATED.—There is a national qualified energy con-  
5 servation bond limitation of \$3,600,000,000.

6 “(d) ALLOCATIONS.—

7 “(1) IN GENERAL.—The limitation applicable  
8 under subsection (c) shall be allocated by the Sec-  
9 retary among the States in proportion to the popu-  
10 lation of the States.

11 “(2) ALLOCATIONS TO LARGEST LOCAL GOV-  
12 ERNMENTS.—

13 “(A) IN GENERAL.—In the case of any  
14 State in which there is a large local govern-  
15 ment, each such local government shall be allo-  
16 cated a portion of such State’s allocation which  
17 bears the same ratio to the State’s allocation  
18 (determined without regard to this subpara-  
19 graph) as the population of such large local  
20 government bears to the population of such  
21 State.

22 “(B) ALLOCATION OF UNUSED LIMITATION  
23 TO STATE.—The amount allocated under this  
24 subsection to a large local government may be

1           reallocated by such local government to the  
2           State in which such local government is located.

3           “(C) LARGE LOCAL GOVERNMENT.—For  
4           purposes of this section, the term ‘large local  
5           government’ means any municipality or county  
6           if such municipality or county has a population  
7           of 100,000 or more.

8           “(3) ALLOCATION TO ISSUERS; RESTRICTION  
9           ON PRIVATE ACTIVITY BONDS.—Any allocation  
10          under this subsection to a State or large local gov-  
11          ernment shall be allocated by such State or large  
12          local government to issuers within the State in a  
13          manner that results in not less than 70 percent of  
14          the allocation to such State or large local govern-  
15          ment being used to designate bonds which are not  
16          private activity bonds.

17          “(e) QUALIFIED CONSERVATION PURPOSE.—For  
18          purposes of this section—

19                 “(1) IN GENERAL.—The term ‘qualified con-  
20                 servation purpose’ means any of the following:

21                         “(A) Capital expenditures incurred for  
22                         purposes of—

23                                 “(i) reducing energy consumption in  
24                                 publicly-owned buildings by at least 20  
25                                 percent,

1 “(ii) implementing green community  
2 programs,

3 “(iii) rural development involving the  
4 production of electricity from renewable  
5 energy resources, or

6 “(iv) any qualified facility (as deter-  
7 mined under section 45(d) without regard  
8 to paragraphs (8) and (10) thereof and  
9 without regard to any placed in service  
10 date).

11 “(B) Expenditures with respect to research  
12 facilities, and research grants, to support re-  
13 search in—

14 “(i) development of cellulosic ethanol  
15 or other nonfossil fuels,

16 “(ii) technologies for the capture and  
17 sequestration of carbon dioxide produced  
18 through the use of fossil fuels,

19 “(iii) increasing the efficiency of exist-  
20 ing technologies for producing nonfossil  
21 fuels,

22 “(iv) automobile battery technologies  
23 and other technologies to reduce fossil fuel  
24 consumption in transportation, or

1 “(v) technologies to reduce energy use  
2 in buildings.

3 “(C) Mass commuting facilities and related  
4 facilities that reduce the consumption of energy,  
5 including expenditures to reduce pollution from  
6 vehicles used for mass commuting.

7 “(D) Demonstration projects designed to  
8 promote the commercialization of—

9 “(i) green building technology,

10 “(ii) conversion of agricultural waste  
11 for use in the production of fuel or other-  
12 wise,

13 “(iii) advanced battery manufacturing  
14 technologies,

15 “(iv) technologies to reduce peak use  
16 of electricity, or

17 “(v) technologies for the capture and  
18 sequestration of carbon dioxide emitted  
19 from combusting fossil fuels in order to  
20 produce electricity.

21 “(E) Public education campaigns to pro-  
22 mote energy efficiency.

23 “(2) SPECIAL RULES FOR PRIVATE ACTIVITY  
24 BONDS.—For purposes of this section, in the case of  
25 any private activity bond, the term ‘qualified con-



1        servation purposes’ shall not include any expenditure  
2        which is not a capital expenditure.

3        “(f) POPULATION.—

4            “(1) IN GENERAL.—The population of any  
5        State or local government shall be determined for  
6        purposes of this section as provided in section 146(j)  
7        for the calendar year which includes the date of the  
8        enactment of this section.

9            “(2) SPECIAL RULE FOR COUNTIES.—In deter-  
10       mining the population of any county for purposes of  
11       this section, any population of such county which is  
12       taken into account in determining the population of  
13       any municipality which is a large local government  
14       shall not be taken into account in determining the  
15       population of such county.

16       “(g) APPLICATION TO INDIAN TRIBAL GOVERN-  
17       MENTS.—An Indian tribal government shall be treated for  
18       purposes of this section in the same manner as a large  
19       local government, except that—

20            “(1) an Indian tribal government shall be treat-  
21       ed for purposes of subsection (d) as located within  
22       a State to the extent of so much of the population  
23       of such government as resides within such State,  
24       and

1           “(2) any bond issued by an Indian tribal gov-  
 2           ernment shall be treated as a qualified energy con-  
 3           servation bond only if issued as part of an issue the  
 4           available project proceeds of which are used for pur-  
 5           poses for which such Indian tribal government could  
 6           issue bonds to which section 103(a) applies.”.

7           (b) CONFORMING AMENDMENTS.—

8           (1) Paragraph (1) of section 54A(d), as added  
 9           by section 104, is amended to read as follows:

10           “(1) QUALIFIED TAX CREDIT BOND.—The term  
 11           ‘qualified tax credit bond’ means—

12                   “(A) a new clean renewable energy bond,  
 13                   or

14                   “(B) a qualified energy conservation bond,  
 15           which is part of an issue that meets requirements of  
 16           paragraphs (2), (3), (4), (5), and (6).”.

17           (2) Subparagraph (C) of section 54A(d)(2), as  
 18           added by section 104, is amended to read as follows:

19           “(C) QUALIFIED PURPOSE.—For purposes  
 20           of this paragraph, the term ‘qualified purpose’  
 21           means—

22                   “(i) in the case of a new clean renew-  
 23                   able energy bond, a purpose specified in  
 24                   section 54B(a)(1), and

1 “(ii) in the case of a qualified energy  
 2 conservation bond, a purpose specified in  
 3 section 54C(a)(1).”.

4 (3) The table of sections for subpart I of part  
 5 IV of subchapter A of chapter 1 is amended by add-  
 6 ing at the end the following new item:

“Sec. 54C. Qualified energy conservation bonds.”.

7 (c) EFFECTIVE DATE.—The amendments made by  
 8 this section shall apply to obligations issued after the date  
 9 of the enactment of this Act.

10 **SEC. 232. EXTENSION AND MODIFICATION OF CREDIT FOR**  
 11 **NONBUSINESS ENERGY PROPERTY.**

12 (a) EXTENSION OF CREDIT.—Section 25C(g) (relat-  
 13 ing to termination) is amended by striking “December 31,  
 14 2007” and inserting “December 31, 2009”.

15 (b) QUALIFIED BIOMASS FUEL PROPERTY.—

16 (1) IN GENERAL.—Section 25C(d)(3) is amend-  
 17 ed—

18 (A) by striking “and” at the end of sub-  
 19 paragraph (D),

20 (B) by striking the period at the end of  
 21 subparagraph (E) and inserting “, and”, and

22 (C) by adding at the end the following new  
 23 subparagraph:

24 “(F) a stove which uses the burning of bio-  
 25 mass fuel to heat a dwelling unit located in the

1 United States and used as a residence by the  
 2 taxpayer, or to heat water for use in such a  
 3 dwelling unit, and which has a thermal effi-  
 4 ciency rating of at least 75 percent.”.

5 (2) BIOMASS FUEL.—Section 25C(d) (relating  
 6 to residential energy property expenditures) is  
 7 amended by adding at the end the following new  
 8 paragraph:

9 “(6) BIOMASS FUEL.—The term ‘biomass fuel’  
 10 means any plant-derived fuel available on a renew-  
 11 able or recurring basis, including agricultural crops  
 12 and trees, wood and wood waste and residues (in-  
 13 cluding wood pellets), plants (including aquatic  
 14 plants), grasses, residues, and fibers.”.

15 (c) COORDINATION WITH CREDIT FOR QUALIFIED  
 16 GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

17 (1) IN GENERAL.—Paragraph (3) of section  
 18 25C(d) is amended by striking subparagraph (C)  
 19 and by redesignating subparagraphs (D) and (E) as  
 20 subparagraphs (C) and (D), respectively.

21 (2) CONFORMING AMENDMENT.—Subparagraph  
 22 (C) of section 25C(d)(2) is amended to read as fol-  
 23 lows:

24 “(C) REQUIREMENTS AND STANDARDS  
 25 FOR AIR CONDITIONERS AND HEAT PUMPS.—

1           The standards and requirements prescribed by  
2           the Secretary under subparagraph (B) with re-  
3           spect to the energy efficiency ratio (EER) for  
4           central air conditioners and electric heat  
5           pumps—

6                     “(i) shall require measurements to be  
7                     based on published data which is tested by  
8                     manufacturers at 95 degrees Fahrenheit,  
9                     and

10                    “(ii) may be based on the certified  
11                    data of the Air Conditioning and Refrig-  
12                    eration Institute that are prepared in part-  
13                    nership with the Consortium for Energy  
14                    Efficiency.”.

15       (d) EFFECTIVE DATE.—The amendments made this  
16 section shall apply to expenditures made after December  
17 31, 2007.

18 **SEC. 233. EXTENSION OF ENERGY EFFICIENT COMMERCIAL**  
19 **BUILDINGS DEDUCTION.**

20       Subsection (h) of section 179D (relating to termi-  
21 nation) is amended by striking “December 31, 2008” and  
22 inserting “December 31, 2013”.

1 **SEC. 234. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**  
2 **ANCE CREDIT FOR APPLIANCES PRODUCED**  
3 **AFTER 2007.**

4 (a) IN GENERAL.—Subsection (b) of section 45M (re-  
5 lating to applicable amount) is amended to read as follows:

6 “(b) APPLICABLE AMOUNT.—For purposes of sub-  
7 section (a)—

8 “(1) DISHWASHERS.—The applicable amount  
9 is—

10 “(A) \$45 in the case of a dishwasher which  
11 is manufactured in calendar year 2008 or 2009  
12 and which uses no more than 324 kilowatt  
13 hours per year and 5.8 gallons per cycle, and

14 “(B) \$75 in the case of a dishwasher  
15 which is manufactured in calendar year 2008,  
16 2009, or 2010 and which uses no more than  
17 307 kilowatt hours per year and 5.0 gallons per  
18 cycle (5.5 gallons per cycle for dishwashers de-  
19 signed for greater than 12 place settings).

20 “(2) CLOTHES WASHERS.—The applicable  
21 amount is—

22 “(A) \$75 in the case of a residential top-  
23 loading clothes washer manufactured in cal-  
24 endar year 2008 which meets or exceeds a 1.72  
25 modified energy factor and does not exceed a  
26 8.0 water consumption factor,

1           “(B) \$125 in the case of a residential top-  
2           loading clothes washer manufactured in cal-  
3           endar year 2008 or 2009 which meets or ex-  
4           ceeds a 1.8 modified energy factor and does not  
5           exceed a 7.5 water consumption factor,

6           “(C) \$150 in the case of a residential or  
7           commercial clothes washer manufactured in cal-  
8           endar year 2008, 2009, or 2010 which meets or  
9           exceeds 2.0 modified energy factor and does not  
10          exceed a 6.0 water consumption factor, and

11          “(D) \$250 in the case of a residential or  
12          commercial clothes washer manufactured in cal-  
13          endar year 2008, 2009, or 2010 which meets or  
14          exceeds 2.2 modified energy factor and does not  
15          exceed a 4.5 water consumption factor.

16          “(3) REFRIGERATORS.—The applicable amount  
17          is—

18               “(A) \$50 in the case of a refrigerator  
19               which is manufactured in calendar year 2008,  
20               and consumes at least 20 percent but not more  
21               than 22.9 percent less kilowatt hours per year  
22               than the 2001 energy conservation standards,

23               “(B) \$75 in the case of a refrigerator  
24               which is manufactured in calendar year 2008 or  
25               2009, and consumes at least 23 percent but no

1 more than 24.9 percent less kilowatt hours per  
2 year than the 2001 energy conservation stand-  
3 ards,

4 “(C) \$100 in the case of a refrigerator  
5 which is manufactured in calendar year 2008,  
6 2009, or 2010, and consumes at least 25 per-  
7 cent but not more than 29.9 percent less kilo-  
8 watt hours per year than the 2001 energy con-  
9 servation standards, and

10 “(D) \$200 in the case of a refrigerator  
11 manufactured in calendar year 2008, 2009, or  
12 2010 and which consumes at least 30 percent  
13 less energy than the 2001 energy conservation  
14 standards.”.

15 (b) ELIGIBLE PRODUCTION.—

16 (1) SIMILAR TREATMENT FOR ALL APPLI-  
17 ANCES.—Subsection (c) of section 45M (relating to  
18 eligible production) is amended—

19 (A) by striking paragraph (2),

20 (B) by striking “(1) IN GENERAL” and all  
21 that follows through “the eligible” and inserting  
22 “The eligible”, and

23 (C) by moving the text of such subsection  
24 in line with the subsection heading and redesign-



1 nating subparagraphs (A) and (B) as para-  
 2 graphs (1) and (2), respectively.

3 (2) MODIFICATION OF BASE PERIOD.—Para-  
 4 graph (2) of section 45M(c), as amended by para-  
 5 graph (1) of this section, is amended by striking “3-  
 6 calendar year” and inserting “2-calendar year”.

7 (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—  
 8 Subsection (d) of section 45M (defining types of energy  
 9 efficient appliances) is amended to read as follows:

10 “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—  
 11 For purposes of this section, the types of energy efficient  
 12 appliances are—

13 “(1) dishwashers described in subsection (b)(1),

14 “(2) clothes washers described in subsection  
 15 (b)(2), and

16 “(3) refrigerators described in subsection  
 17 (b)(3).”.

18 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

19 (1) INCREASE IN LIMIT.—Paragraph (1) of sec-  
 20 tion 45M(e) (relating to aggregate credit amount al-  
 21 lowed) is amended to read as follows:

22 “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—  
 23 The aggregate amount of credit allowed under sub-  
 24 section (a) with respect to a taxpayer for any tax-  
 25 able year shall not exceed \$75,000,000 reduced by

1 the amount of the credit allowed under subsection  
2 (a) to the taxpayer (or any predecessor) for all prior  
3 taxable years beginning after December 31, 2007.”.

4 (2) EXCEPTION FOR CERTAIN REFRIGERATOR  
5 AND CLOTHES WASHERS.—Paragraph (2) of section  
6 45M(e) is amended to read as follows:

7 “(2) AMOUNT ALLOWED FOR CERTAIN REFRIG-  
8 ERATORS AND CLOTHES WASHERS.—Refrigerators  
9 described in subsection (b)(3)(D) and clothes wash-  
10 ers described in subsection (b)(2)(D) shall not be  
11 taken into account under paragraph (1).”.

12 (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

13 (1) IN GENERAL.—Paragraph (1) of section  
14 45M(f) (defining qualified energy efficient appliance)  
15 is amended to read as follows:

16 “(1) QUALIFIED ENERGY EFFICIENT APPLI-  
17 ANCE.—The term ‘qualified energy efficient appli-  
18 ance’ means—

19 “(A) any dishwasher described in sub-  
20 section (b)(1),

21 “(B) any clothes washer described in sub-  
22 section (b)(2), and

23 “(C) any refrigerator described in sub-  
24 section (b)(3).”.

1           (2) CLOTHES WASHER.—Section 45M(f)(3) (de-  
2       fining clothes washer) is amended by inserting  
3       “commercial” before “residential” the second place  
4       it appears.

5           (3) TOP-LOADING CLOTHES WASHER.—Sub-  
6       section (f) of section 45M (relating to definitions) is  
7       amended by redesignating paragraphs (4), (5), (6),  
8       and (7) as paragraphs (5), (6), (7), and (8), respec-  
9       tively, and by inserting after paragraph (3) the fol-  
10      lowing new paragraph:

11          “(4) TOP-LOADING CLOTHES WASHER.—The  
12      term ‘top-loading clothes washer’ means a clothes  
13      washer which has the clothes container compartment  
14      access located on the top of the machine and which  
15      operates on a vertical axis.”.

16          (4) REPLACEMENT OF ENERGY FACTOR.—Sec-  
17      tion 45M(f)(6), as redesignated by paragraph (3), is  
18      amended to read as follows:

19          “(6) MODIFIED ENERGY FACTOR.—The term  
20      ‘modified energy factor’ means the modified energy  
21      factor established by the Department of Energy for  
22      compliance with the Federal energy conservation  
23      standard.”.

24          (5) GALLONS PER CYCLE; WATER CONSUMP-  
25      TION FACTOR.—Section 45M(f) (relating to defini-

1 tions), as amended by paragraph (3), is amended by  
2 adding at the end the following:

3 “(9) GALLONS PER CYCLE.—The term ‘gallons  
4 per cycle’ means, with respect to a dishwasher, the  
5 amount of water, expressed in gallons, required to  
6 complete a normal cycle of a dishwasher.

7 “(10) WATER CONSUMPTION FACTOR.—The  
8 term ‘water consumption factor’ means, with respect  
9 to a clothes washer, the quotient of the total weight-  
10 ed per-cycle water consumption divided by the cubic  
11 foot (or liter) capacity of the clothes washer.”.

12 (f) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to appliances produced after De-  
14 cember 31, 2007.

15 **SEC. 235. FIVE-YEAR APPLICABLE RECOVERY PERIOD FOR**  
16 **DEPRECIATION OF QUALIFIED ENERGY MAN-**  
17 **AGEMENT DEVICES.**

18 (a) IN GENERAL.—Section 168(e)(3)(B) (relating to  
19 5-year property) is amended by striking “and” at the end  
20 of clause (v), by striking the period at the end of clause  
21 (vi) and inserting “, and”, and by inserting after clause  
22 (vi) the following new clause:

23 “(vii) any qualified energy manage-  
24 ment device.”.

1 (b) DEFINITION OF QUALIFIED ENERGY MANAGE-  
2 MENT DEVICE.—Section 168(i) (relating to definitions  
3 and special rules) is amended by inserting at the end the  
4 following new paragraph:

5 “(18) QUALIFIED ENERGY MANAGEMENT DE-  
6 VICE.—

7 “(A) IN GENERAL.—The term ‘qualified  
8 energy management device’ means any energy  
9 management device which is installed on real  
10 property of a customer of the taxpayer and is  
11 placed in service by a taxpayer who—

12 “(i) is a supplier of electric energy or  
13 a provider of electric energy services, and

14 “(ii) provides all commercial and resi-  
15 dential customers of such supplier or pro-  
16 vider with net metering upon the request  
17 of such customer.

18 “(B) ENERGY MANAGEMENT DEVICE.—  
19 For purposes of subparagraph (A), the term  
20 ‘energy management device’ means any time-  
21 based meter and related communication equip-  
22 ment which is capable of being used by the tax-  
23 payer as part of a system that—

24 “(i) measures and records electricity  
25 usage data on a time-differentiated basis

1 in at least 24 separate time segments per  
2 day,

3 “(ii) provides for the exchange of in-  
4 formation between supplier or provider and  
5 the customer’s energy management device  
6 in support of time-based rates or other  
7 forms of demand response, and

8 “(iii) provides data to such supplier or  
9 provider so that the supplier or provider  
10 can provide energy usage information to  
11 customers electronically.

12 “(C) NET METERING.—For purposes of  
13 subparagraph (A), the term ‘net metering’  
14 means allowing customers a credit for providing  
15 electricity to the supplier or provider.”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to property placed in service after  
18 the date of the enactment of this Act.

## 19 **TITLE III—REVENUE** 20 **PROVISIONS**

### 21 **SEC. 301. LIMITATION OF DEDUCTION FOR INCOME AT-** 22 **TRIBUTABLE TO DOMESTIC PRODUCTION OF** 23 **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

24 (a) DENIAL OF DEDUCTION FOR MAJOR INTE-  
25 GRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO

1 DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY  
2 PRODUCTS THEREOF.—

3 (1) IN GENERAL.—Subparagraph (B) of section  
4 199(c)(4) (relating to exceptions) is amended by  
5 striking “or” at the end of clause (ii), by striking  
6 the period at the end of clause (iii) and inserting “,  
7 or”, and by inserting after clause (iii) the following  
8 new clause:

9 “(iv) in the case of any major inte-  
10 grated oil company (as defined in section  
11 167(h)(5)(B)), the production, refining,  
12 processing, transportation, or distribution  
13 of oil, gas, or any primary product thereof  
14 during any taxable year described in sec-  
15 tion 167(h)(5)(B).”.

16 (2) PRIMARY PRODUCT.—Section 199(c)(4)(B)  
17 is amended by adding at the end the following flush  
18 sentence:

19 “For purposes of clause (iv), the term ‘primary  
20 product’ has the same meaning as when used in  
21 section 927(a)(2)(C), as in effect before its re-  
22 peal.”.

23 (b) LIMITATION ON OIL RELATED QUALIFIED PRO-  
24 Duction ACTIVITIES INCOME FOR TAXPAYERS OTHER  
25 THAN MAJOR INTEGRATED OIL COMPANIES.—

1           (1) IN GENERAL.—Section 199(d) is amended  
2           by redesignating paragraph (9) as paragraph (10)  
3           and by inserting after paragraph (8) the following  
4           new paragraph:

5           “(9) SPECIAL RULE FOR TAXPAYERS WITH OIL  
6           RELATED QUALIFIED PRODUCTION ACTIVITIES IN-  
7           COME.—

8           “(A) IN GENERAL.—If a taxpayer (other  
9           than a major integrated oil company (as defined  
10          in section 167(h)(5)(B))) has oil related quali-  
11          fied production activities income for any taxable  
12          year beginning after 2009, the amount of the  
13          deduction under subsection (a) shall be reduced  
14          by 3 percent of the least of—

15               “(i) the oil related qualified produc-  
16               tion activities income of the taxpayer for  
17               the taxable year,

18               “(ii) the qualified production activities  
19               income of the taxpayer for the taxable  
20               year, or

21               “(iii) taxable income (determined  
22               without regard to this section).

23           “(B) OIL RELATED QUALIFIED PRODUC-  
24           TION ACTIVITIES INCOME.—The term ‘oil re-  
25           lated qualified production activities income’



1 means for any taxable year the qualified pro-  
 2 duction activities income which is attributable  
 3 to the production, refining, processing, trans-  
 4 portation, or distribution of oil, gas, or any pri-  
 5 mary product thereof during such taxable  
 6 year.”.

7 (2) CONFORMING AMENDMENT.—Section  
 8 199(d)(2) (relating to application to individuals) is  
 9 amended by striking “subsection (a)(1)(B)” and in-  
 10 serting “subsections (a)(1)(B) and (d)(9)(A)(iii)”.

11 (c) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to taxable years beginning after  
 13 December 31, 2008.

14 **SEC. 302. CLARIFICATION OF DETERMINATION OF FOREIGN**  
 15 **OIL AND GAS EXTRACTION INCOME.**

16 (a) IN GENERAL.—Paragraph (1) of section 907(c)  
 17 is amended by redesignating subparagraph (B) as sub-  
 18 paragraph (C), by striking “or” at the end of subpara-  
 19 graph (A), and by inserting after subparagraph (A) the  
 20 following new subparagraph:

21 “(B) so much of any transportation of  
 22 such minerals as occurs before the fair market  
 23 value event, or”.

1       (b) FAIR MARKET VALUE EVENT.—Subsection (c) of  
2 section 907 is amended by adding at the end the following  
3 new paragraph:

4           “(6) FAIR MARKET VALUE EVENT.—For pur-  
5 poses of this section, the term ‘fair market value  
6 event’ means, with respect to any mineral, the first  
7 point in time at which such mineral—

8           “(A) has a fair market value which can be  
9 determined on the basis of a transfer, which is  
10 an arm’s length transaction, of such mineral  
11 from the taxpayer to a person who is not re-  
12 lated (within the meaning of section 482) to  
13 such taxpayer, or

14           “(B) is at a location at which the fair mar-  
15 ket value is readily ascertainable by reason of  
16 transactions among unrelated third parties with  
17 respect to the same mineral (taking into ac-  
18 count source, location, quality, and chemical  
19 composition).”.

20       (c) SPECIAL RULE FOR CERTAIN PETROLEUM  
21 TAXES.—Subsection (c) of section 907, as amended by  
22 subsection (b), is amended to by adding at the end the  
23 following new paragraph:

24           “(7) OIL AND GAS TAXES.—In the case of any  
25 tax imposed by a foreign country which is limited in

1 its application to taxpayers engaged in oil or gas ac-  
2 tivities—

3 “(A) the term ‘oil and gas extraction taxes’  
4 shall include such tax,

5 “(B) the term ‘foreign oil and gas extrac-  
6 tion income’ shall include any taxable income  
7 which is taken into account in determining such  
8 tax (or is directly attributable to the activity to  
9 which such tax relates), and

10 “(C) the term ‘foreign oil related income’  
11 shall not include any taxable income which is  
12 treated as foreign oil and gas extraction income  
13 under subparagraph (B).”.

14 (d) CONFORMING AMENDMENTS.—

15 (1) Subparagraph (C) of section 907(c)(1), as  
16 redesignated by this section, is amended by inserting  
17 “or used by the taxpayer in the activity described in  
18 subparagraph (B)” before the period at the end.

19 (2) Subparagraph (B) of section 907(c)(2) is  
20 amended to read as follows:

21 “(B) so much of the transportation of such  
22 minerals or primary products as is not taken  
23 into account under paragraph (1)(B),”.

1 (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

4 **SEC. 303. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
5 **TAXES.**

6 The percentage under subparagraph (C) of section  
7 401(1) of the Tax Increase Prevention and Reconciliation  
8 Act of 2005 in effect on the date of the enactment of this  
9 Act is increased by 3.00 percentage points.

10 **TITLE IV—OTHER PROVISIONS**  
11 **Subtitle A—Studies**

12 **SEC. 401. CARBON AUDIT OF THE TAX CODE.**

13 (a) STUDY.—The Secretary of the Treasury shall  
14 enter into an agreement with the National Academy of  
15 Sciences to undertake a comprehensive review of the Inter-  
16 nal Revenue Code of 1986 to identify the types of and  
17 specific tax provisions that have the largest effects on car-  
18 bon and other greenhouse gas emissions and to estimate  
19 the magnitude of those effects.

20 (b) REPORT.—Not later than 2 years after the date  
21 of enactment of this Act, the National Academy of  
22 Sciences shall submit to Congress a report containing the  
23 results of study authorized under this section.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated to carry out this section  
3 \$1,500,000 for the period of fiscal years 2008 and 2009.

4 **SEC. 402. COMPREHENSIVE STUDY OF BIOFUELS.**

5 (a) STUDY.—The Secretary of the Treasury, in con-  
6 sultation with the Secretary of Agriculture, the Secretary  
7 of Energy, and the Administrator of the Environmental  
8 Protection Agency, shall enter into an agreement with the  
9 National Academy of Sciences to produce an analysis of  
10 current scientific findings to determine—

11 (1) current biofuels production, as well as pro-  
12 jections for future production,

13 (2) the maximum amount of biofuels production  
14 capable on United States farmland,

15 (3) the domestic effects of a dramatic increase  
16 in biofuels production on, for example—

17 (A) the price of fuel,

18 (B) the price of land in rural and subur-  
19 ban communities,

20 (C) crop acreage and other land use,

21 (D) the environment, due to changes in  
22 crop acreage, fertilizer use, runoff, water use,  
23 emissions from vehicles utilizing biofuels, and  
24 other factors,

25 (E) the price of feed,

1 (F) the selling price of grain crops,

2 (G) exports and imports of grains,

3 (H) taxpayers, through cost or savings to  
4 commodity crop payments, and

5 (I) the expansion of refinery capacity,

6 (4) the ability to convert corn ethanol plants for  
7 other uses, such as cellulosic ethanol or biodiesel,

8 (5) a comparative analysis of corn ethanol  
9 versus other biofuels and renewable energy sources,  
10 considering cost, energy output, and ease of imple-  
11 mentation, and

12 (6) the need for additional scientific inquiry,  
13 and specific areas of interest for future research.

14 (b) REPORT.—The National Academy of Sciences  
15 shall submit an initial report of the findings of the report  
16 required under subsection (a) to the Congress not later  
17 than 3 months after the date of the enactment of this Act,  
18 and a final report not later than 6 months after such date  
19 of enactment.

1 **Subtitle B—Application of Certain**  
2 **Labor Standards on Projects Fi-**  
3 **nanced Under Tax Credit Bonds**

4 **SEC. 411. APPLICATION OF CERTAIN LABOR STANDARDS**  
5 **ON PROJECTS FINANCED UNDER TAX CREDIT**  
6 **BONDS.**

7 Subchapter IV of chapter 31 of title 40, United  
8 States Code, shall apply to projects financed with the pro-  
9 ceeds of any tax credit bond (as defined in section 54A  
10 of the Internal Revenue Code of 1986).

Passed the House of Representatives February 27,  
2008.

Attest:

*Clerk.*

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5351

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## AN ACT

To amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.